TAX PROVISIONS FOR POVERTY RELIEF:

AN ANALYSIS OF THE FEDERAL AND STATE EARNED INCOME TAX CREDIT AND THE PENNSYLVANIA SPECIAL TAX FORGIVENESS PROGRAM

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JOINT STATE GOVERNMENT COMMISSION
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The release of this report should not be interpreted as an endorsement by the members of the Executive Committee of the Joint State Government Commission of all the findings, recommendations and conclusions contained in this report.

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EXECUTIVE SUMMARY

This study by the Joint State Government Commission is presented pursuant to the directive of section 304.1 of the Tax Reform Code of 1971 (TRC). This provision, enacted in July 2008, directed the Commission to "conduct . . . a comprehensive study to determine whether alternative forms of special tax provisions for poverty would be more beneficial to persons who, because of poverty, are determined to be in need of special tax provisions."

Federal EITC. Since its inception in 1975, the federal Earned Income Tax Credit (EITC) has enjoyed bipartisan support because it is viewed as simultaneously helping to alleviate poverty and encouraging low-income individuals to join or remain in the work force. As a result, EITC has become the largest federal program to assist low-income working families. But critics of the federal EITC complain of its complex eligibility formula, which causes many recipients to use expensive paid preparers, and perceived rates of overpayment. The increased marginal tax rate that accompanies EITC phaseout may discourage workers from advancing beyond low-paying positions (especially when combined with the phaseout of other federal and state assistance programs at similar income levels). About 15 to 20 percent of individuals and families who are eligible for EITC do not apply for it. To improve participation rates, the IRS and state governments have launched a variety of outreach campaigns that provide information and tax form preparation services. The effectiveness of these efforts has been enhanced by cooperation among government officials, national and local advocacy groups, and organizations representing private industry.

Special Provisions (Tax Forgiveness). The Pennsylvania Constitution lays down a general rule that taxes be "uniform upon the same class of subjects" (Art. VIII, § 1), but this rule is subject to several exemptions and special provisions listed in Art. VIII, § 2, including an authorization for "special provisions" in favor of those found to be in need of tax relief due to "age, disability, infirmity, or poverty" (§ 2(b)(ii)). This authorization is currently implemented by TRC § 304, which provides for a nonrefundable credit based on "poverty income" and number of dependent children, a provision variously termed special provision (SP) or "tax forgiveness." The SP formula gives a nonrefundable credit against taxable income of $6,500 per adult and $9,500 per dependent, thus establishing an income floor for the personal income tax (PIT). More than one-fifth of all Pennsylvania tax filers are afforded tax reductions by SP. Because the formula counts additional dependents heavily and excludes pension and retirement benefits from poverty income, some tax filers who receive the tax reduction under SP earn income above the federal poverty level. Qualified tax filers with higher incomes get larger average reductions than qualified filers with lower incomes. However, SP is not refundable and phases out completely over an income range of only $2,250.

State EITC. Other states have adopted a variety of measures to alleviate poverty through the state personal income tax. Among the most prevalent is a state EITC modeled on the federal provision, commonly referred to as *piggyback* state EITC. In a piggyback state EITC, the amount of the credit is determined simply by a multiplying the federal EITC amount by a uniform credit percentage. In most EITC states, the credit is refundable, which means that the tax filer receives a check for the difference between the full amount of the state EITC and state income taxes otherwise owed. A state EITC is currently operative in 22 states. Fourteen of these states and the District of Columbia use a refundable piggyback formula, with the credit percentage ranging from 5 to 50 percent of the federal EITC; eight other states have EITCs that depart in various ways from this basic structure. In contrast, no other state has adopted a formula similar to SP.

Adoption of a state EITC based on federal eligibility criteria could exclude a number of current SP beneficiaries. Some senior citizens who receive tax forgiveness under SP are not eligible for the federal EITC and would likewise be ineligible for a piggyback state EITC. Families do not receive additional EITC benefits if they have more than three dependent children, whereas SP does not limit the number of qualifying children.

The broad issue of the adoption of a state EITC raises a number of narrower policy issues:

- While the majority of EITC states piggyback the federal EITC, two states have adopted alternatives in order to provide for a gentler phaseout or a greater benefit to families with more than one child. The wide adoption of the piggyback model is testimony to the appeal of its simplicity.

- Seventeen states that have a state EITC have chosen to make it completely refundable. In three states the EITC is nonrefundable, and in two states, partially refundable. A nonrefundable EITC is less expensive, but is of limited benefit to tax filers.

- If a piggyback model is used, the credit percentage must be selected. This is the percentage of the federal EITC that determines the amount of the state credit. The higher the credit percentage, the more expensive the EITC is for the state and the more beneficial it is to recipients.

- Since the SP is already in place, it must be decided how the EITC will intersect with it. The EITC could be added on to the SP or replace the SP, or the tax filer who is benefited by either could be allowed to elect between them. The costs (or savings) at credit percentages of 10, 20, and 30 percent, are shown in Table 1.

Table 1

ESTIMATED FISCAL COST (SAVINGS) OF A STATE EITC (2010)
(Dollars in millions)

Credit percentage	**Additional**	**Replacement**	**Elective**
10%	$142.9	($133.4)	$76.9
20	285.8	9.5	241.9
30	428.7	152.4	425.2

SOURCE: Costs estimated by using data from Brookings, EITC Interactive: User Guide and Data Dictionary, available at http://www.brookings.edu/metro/EITC/EITC-Data.aspx (accessed September 10, 2008); and Pennsylvania Department of Revenue (PDR), Bureau of Research, unpublished data provided to the Commission, May 20, 2009.

Of course the issue of instituting a state EITC at this time must be considered in the context of the current recession, which sharply reduces the resources available to fund any tax expenditure, while at the same time increasing the economic distress facing the Commonwealth's working individuals and families.

INTRODUCTION

This staff study[1] of the Joint State Government Commission is presented pursuant to the directive of the act of July 9, 2008 (P.L.922, No. 66), which amended the Tax Reform Code of 1971 (TRC)[2] by adding, among other provisions, section 304.1. This provision directed the Commission to "conduct . . . a comprehensive study to determine whether alternative forms of special tax provisions for poverty would be more beneficial to persons who, because of poverty are determined to be in need of special tax provisions."[3]

The staff of the Joint State Government Commission would like to thank C. Daniel Hassell and Amy Gill of the Pennsylvania Department of Revenue and Sharon Ward and Michael Wood of the Pennsylvania Budget and Policy Center for their invaluable assistance in the preparation of this report.

[1] Unlike many Joint State Government Commission studies, this study was done without the appointment of a legislative task force or an expert advisory committee, as no such appointments were authorized by the enabling legislation.

[2] Act of March 4, 1971 (P.L.6, No.2); 72 P.S. § 7101 et seq.

[3] Section 304.1 is included as Appendix A.

CHAPTER 1
THE FEDERAL EARNED INCOME TAX CREDIT

The Earned Income Tax Credit (EITC) provides a refundable credit on federal income taxes that varies by income level and number of dependent children. The purpose of the EITC is to provide a measure of tax relief for low-income workers and their families. It has proven to be the most influential model for state tax poverty relief programs.

The EITC, as implemented, seeks to improve the condition of the working poor by offsetting the regressive burden of payroll taxes.

> The credit was designed [as it was] because policy makers recognized that the income tax is not the only federal tax paid by low- and middle-income workers. These taxpayers usually pay much more in payroll taxes than in income taxes. By making the EITC refundable, Congress ensured that it could be used to help offset all federal taxes paid, not just the income tax.[4]

THE STRUCTURE OF THE FEDERAL EITC

As provided in § 32 of the Internal Revenue Code (IRC), the basic structure of the federal EITC has remained fairly consistent as it has evolved in other respects. The design of the EITC entails a three-way tradeoff:

> In designing the credit, Congress and the [state legislatures] are faced with these trade-offs:
>
> - Targeting or limiting the credit to lower income workers
> - Minimizing the work disincentive that results from "taking away" the credit as income rises
> - Limiting the cost of the credit

[4] Institute on Taxation and Economic Policy, "Rewarding Work through Earned Income Tax Credits" (Washington, D.C.: ITEP, 2008), 2 http://www.itepnet.org/pb15eitc.pdf (accessed March 24, 2009).

> The credit can have a high phaseout rate, which means that it will go primarily to filers with incomes below the phaseout threshold. The downside of this approach is that there will be a high effective tax rate and large work disincentive for filers in the phaseout range. Or, the credit can have a low phaseout rate, with filers in the phaseout range facing a smaller effective tax rate and a smaller work disincentive. But this approach means that the credit will be available to filers with higher incomes and will cost more. Policymakers must choose between imposing a steep phaseout rate to target the credit to low-income families and to keep the overall cost of the credit low, or using a lower phaseout rate that makes the credit available at higher income and costs more to fund.[5]

Another trade-off EITC has faced is between simplicity of application versus both targeting the credit to the most deserving and preventing fraud and abuse by filers.

Like all tax credits, the EITC is subtracted from the filers' tax liability, but unlike most other credits, the EITC is refundable; that is, if the EITC exceeds the tax liability otherwise owed by the filer, the difference is refunded to the filer.[6] A family with no income tax liability may receive the entire EITC as a refund. The amount of a filer's credit can be determined by referring to a table included in IRS instructions.

The amount of the credit is determined by multiplying the filer's earned income by the *credit percentage*. The *peak income range* is the income range where the credit amount equals the *maximum credit*, which is the largest amount credited. The *phaseout percentage* is the rate at which the credit is decreased for income above the peak income range. The *phaseout income* is the lowest income at which the filer no longer qualifies for EITC.

Different amounts of credit apply to given levels of income for single people, married couples, and filers with dependent children. The largest credit is available for filers who have three or more qualifying children; a much smaller credit applies to single filers without dependent children.[7] The rules for single filers also apply to those filing as head of household or qualifying surviving spouse. The amount of the credit as determined by these factors is shown in Table 2. Figure 1 and Figure 2 provide visual representations of the EITC amounts for single and married joint filers, respectively.

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[5] Minnesota House of Representatives, Research Department, "The Federal Earned Income Tax Credit and the Minnesota Working Family Credit" (St. Paul, Minn.: Dec. 2007), 20, 21.

[6] Center on Budget and Policy Priorities (Jason Levitis and Jeremy Koulish), "State Earned Income Tax Credits: 2008 Legislative Update" (Washington, D.C.: CBPP, October 8, 2008) http://www.cbpp.org/6-6-08sfp.htm .

[7] 26 U.S.C. § 32 (2009); Brookings Institution (Steve Holt), "The Earned Income Tax Credit at Age 30: What We Know" (Washington, D.C.: Brookings Inst., 2006), 3 http://www.brookings.edu/~/media/Files/rc/reports/2006/02childrenfamilies_holt/20060209_Holt.pdf (accessed October 15, 2008).

Table 2

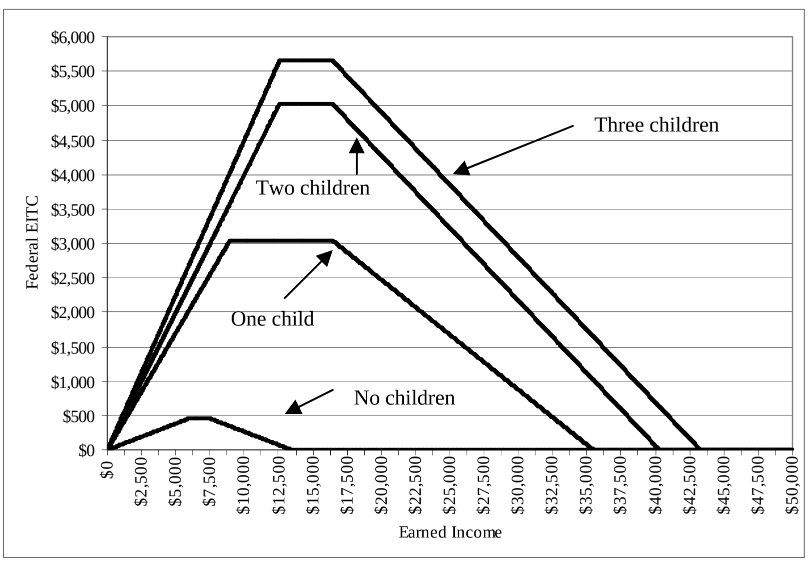
STRUCTURE OF FEDERAL EARNED INCOME TAX CREDIT
(Tax year 2009)

Family status	Credit Percentage	Peak income range	Phaseout percentage	Phaseout income	Maximum credit
Single, no children	7.65%	$5,970-$7,470	7.65%	$13,440	$457
Joint, no children	7.65	5,970-12,470	7.65	18,440	457
Single, one child	34.00	8,950-16,420	15.98	35,463	3,043
Joint, one child	34.00	8,950-16,420	15.98	40,463	3,043
Single, two children	40.00	12,570-16,420	21.06	40,295	5,028
Joint, two children	40.00	12,570-21,420	21.06	45,295	5,028
Single, three or more children	45.00	12,570-16,420	21.06	43,279	5,657
Joint, three or more children	45.00	12,570-21,420	21.06	48,279	5,657

SOURCE: Tax Policy Center, The Tax Policy Briefing Book: Taxation and the Family: What is the Earned Income Tax Credit? http://www.taxpolicycenter.org/briefing-book/key-elements/family/eitc.cfm (accessed June 9, 2009).

Figure 1

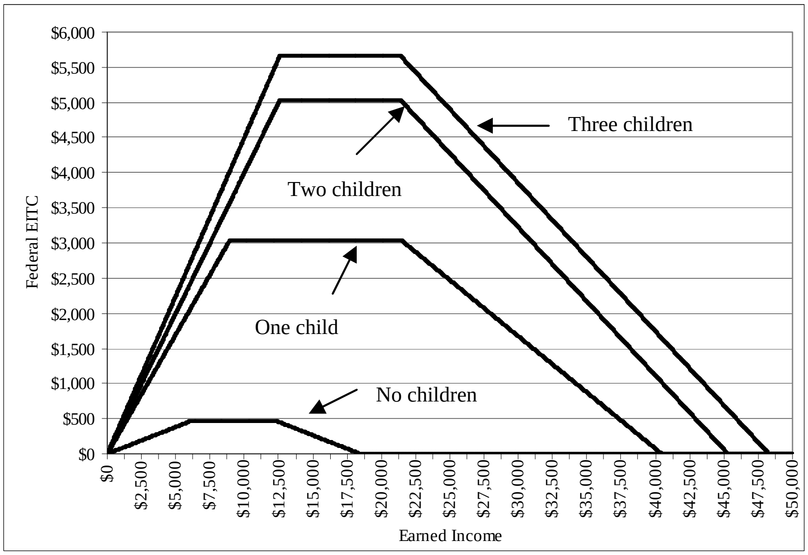
VALUE OF EITC FOR SINGLE FILERS
(Tax year 2009)



SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book.

Figure 2

VALUE OF EITC FOR MARRIED JOINT FILERS
(Tax year 2009)



SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book.

Like the income tax as a whole, the EITC increases taxes for married couples as compared to what their taxes would be if both partners were single. At incomes eligible for EITC, this "marriage penalty" is enhanced. As of 2009, two parents, each with two children and each earning $15,000, would be eligible for a total EITC of $10,056 if they remain single, but of only $3,850 if they marry.[8] However, both the general and EITC "marriage penalties" are unavoidable in a system that includes both joint filing and progressive rates.[9] Completely eliminating the marriage penalty in the federal tax system would create a "marriage bonus" under which a taxpayer would be entitled to twice the income of a single filer at the same tax rate.[10]

Most senior citizens are excluded from EITC for two reasons: (1) filers over the age of 65 must have a qualifying child, which is not a requirement for filers between the ages of 25 and 65; and (2) eligible filers must have earned income from salaries, wages, or self-employment.

[8] Example suggested in Marguerite Casey Foundation, "The Earned Income Tax Credit: Analysis and Proposals for Reform" (Seattle: MCF, [2005]), 16 http://www.caseygrants.org/documents/reports/MCF_EITC_Paper.pdf . The amounts are updated to reflect current law.

[9] Marguerite Casey Foundation, "EITC Analysis and Proposals," 16.

[10] Jennifer Bird-Pollan, "Who's Afraid of Redistribution? An Analysis of the Earned Income Tax Credit" *Missouri Law Review*, vol. 74, 251–85, 266-67 (Spring, 2009).

Despite the size of the EITC program, administrative costs are likely less than one percent of the program costs, lower than other transfer programs.[11]

EITC payments may be paid to filers in advance in an amount up to 60 percent of the anticipated refund, but few take advantage of this feature. From 2002 through 2004, about 3 percent of those eligible for advance payments opted to receive them.[12] Recipients who are paid amounts as EITC above the amount they are entitled to are required to pay back the excess.

DEVELOPMENT OF THE FEDERAL EITC

The concept of the present-day EITC goes back to the administration of Richard M. Nixon. In a 1969 televised address, President Nixon proposed the Family Assistance Program (FAP) as a replacement for Aid to Families with Dependent Children (AFDC), food stamps, and Medicaid. The cornerstone of the FAP was an annual direct cash payment to poor individuals and families. A family of four could receive a yearly check of up to $1,600 per year.[13] Commonly known as the "negative income tax," FAP was heavily criticized from various points of view. Welfare advocates feared that the proposed annual payments for a family of four were insufficient. Unions argued that FAP would undermine the minimum wage. Conservatives opposed issuing a cash payment without regard to employment status. Some feared that millions of people would be added to welfare caseloads by including working poor among the ranks of recipients. In 1971 and 1972, the Nixon administration proposed various forms of FAP, but President Nixon abandoned the concept in the face of its political unpopularity.[14]

Sen. Russell Long (Dem.-La.), Chairman of the Senate Finance Committee, led opposition to FAP on the grounds that it was too generous to the poor and excused them from working in order to receive the benefit. In 1972, he unveiled an alternative "Workfare" plan, which was a wage supplement for the working poor.[15] Workfare included a work bonus tax rebate equal to ten percent of wages earned by heads of households with children and a family income of less than $4,000.[16] In 1974, he redirected his strategy for Workfare by presenting it as a tax relief plan, rather than welfare reform, as focus intensified on reducing the burden of rising regressive payroll

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[11] Brookings Institution (Holt) "EITC at Age 30," 6.

[12] GAO, Advance Earned Income Tax Credit: Low Use and Small Dollars Paid Impede IRS's Efforts to Reduce High Noncompliance (Washington, D.C.: GAO, August 10, 2007), 9 http://www.gao.gov/new.items/d071110.pdf .

[13] WGBH Education Foundation, *American Experience: The Presidents*, "Domestic Politics, Richard M. Nixon, 37th President," (WGBH Education Foundation, PBS.org) http://www.pbs.org/wgbh/amex/presidents/37_nixon/nixon_domestic.html (accessed October 15, 2008).

[14] Ibid.

[15] Christopher Howard, "Happy Returns: How the Working Poor Got Tax Relief," *The American Prospect*, vol. 5, no. 17 (Mar. 21, 1994) http://www.prospect.org/cs/articles?article=happy_returns .

[16] Ibid.

taxes for Social Security and Medicare.[17] His support was instrumental in securing the enactment of the first federal EITC as part of the Tax Reduction Act of 1975 (Pub. L. 94-12).[18]

This initial version of EITC provided for a credit of ten percent of earnings on the first $4,000, phasing out at income levels above $8,000.[19] In 1975, the first tax year the EITC was in effect, 6.2 million families claimed $1.25 billion in credits.[20] The initial legislation sunsetted the EITC unless explicitly renewed; however, the Revenue Adjustment Act of 1975 (P.L. 94-164), the Tax Reform Act of 1976 (Pub. L. 94-455), and the Tax Reduction and Simplification Act of 1977 (Pub. L. 95-30) each extended the EITC by one year.[21]

The Revenue Act of 1978 (Pub. L. 95-600) made the EITC permanent, the maximum credit was raised to $500, the eligibility level was raised to $10,000, credits could be paid in advance of filing, and eligibility determinations were simplified. The EITC amount was set at ten percent of the first $5,000 of earnings. The maximum credit of $500 applied to earnings between $5,000 and $6,000. The phaseout percentage above the latter amount was 12.5 percent, with complete phaseout at adjusted gross income (AGI) of $10,000.[22]

The Deficit Reduction Act of 1984 (Pub. L. 98-369) raised the maximum credit to $550 by establishing the EITC at eleven percent for the first $5,000 of income. A phaseout percentage was provided at 12.22 percent of AGI above $6,500, so that the credit was completely phased out when AGI reached $11,000.[23]

The Tax Reform Act of 1986 (Pub. L. 99-514) increased the earned income amount, the credit percentage, and the phaseout amount. The EITC was increased from 11 percent on the first $5,000 to 14 percent on the first $5,714. The act indexed the credit to inflation. The phaseout income was increased from $11,000 to $15,432, and the phaseout rate was lowered from 12.22 percent to 10 percent. The increase in the EITC and the lower phaseout rate increased the income eligibility from $11,000 to $14,500.[24]

The Omnibus Budget Reconciliation Act (OBRA) of 1990 (Pub. L. 101-508) introduced adjustments for family size by providing that recipients with two or more children would receive greater tax relief than would a family with one child. This was done in order to expand on the EITC's role as a welfare-to-work model while maintaining its role as an offset against payroll taxes.

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[17] Brookings Institution (Holt), "EITC at Age 30"; Howard, "Happy Returns."

[18] Howard, "Happy Returns."

[19] Congressional Research Service (Christine Scott), "The Earned Income Tax Credit (EITC): An Overview," CRS Report for Congress (Washington, D.C.: CRS, January 31, 2006), 20 http://assets.opencrs.com/rpts/RL31768-20070315.pdf .

[20] Brookings Institution (Holt), "EITC at Age 30."

[21] CRS (Scott), "EITC Overview," 20.

[22] Ibid., 21, 22.

[23] Ibid.

[24] Ibid., 21.

As part of the OBRA of 1990, an effort was made to further aid families in providing childcare for children up to age one. Eligible families received an additional 5 percent to their EITC rate, to a maximum of $388 in 1993. The phaseout rate for this additional benefit was set at 3.57 percent added to the family's phaseout rate. In 1993, therefore, families with one or more children below the age of one had a combined credit rate of 23.5 percent or 24.5 percent depending on the number of children, and a combined phaseout rate of 16.78 percent or 17.5 percent.[25]

The OBRA of 1990 added a further benefit to help parents afford health care insurance for their children. In addition to the base EITC and any extra credit for children below the age of one, families could receive an additional child health insurance credit of 6 percent. The phaseout rate was 4.285 percent on top of the phaseout rates for the base and childcare EITCs. The maximum family credit for healthcare was $465. The credit could not exceed health insurance premiums paid by the family for the year, and it could not be paid in advance of the annual tax filing.[26]

The OBRA of 1993 (Pub. L. 103-66) reflected the Clinton administration's policy of expanding the credit for families with two or more children in order to alleviate poverty for families whose wage earners received the minimum wage. In order to obtain enactment of these two provisions, the administration agreed to drop both the health care premium credit and the childcare credit that had been enacted by the OBRA of 1990.[27] Credit rates were increased from 23 to 34 percent for a family with one child, and from 25 to 40 percent for a family with two or more children. While the phaseout rate for single-child families was decreased from 16.43 to 15.98 percent, it was raised from 17.86 to 21.06 percent for families with two or more children. To offset an increase in the gasoline tax that was included in this legislation, the EITC was expanded to include low-income adults with no children. Childless families received a credit of 7.65 percent of earnings for the first $4,000 for a maximum of $306; their phaseout rate was set at 7.65 percent beginning at $5,000, with complete phaseout at $9,000. Inflation adjustment for the maximum earned income and the phaseout income levels was mandated.[28]

Legislation implementing the General Agreement on Tariffs and Trade of 1994 (P.L. 103-465) included, for the first time, an EITC for families living outside the United States under a U.S. military assignment. Prison inmates and nonresident aliens were excluded from eligibility for EITC.[29]

The 1995 IRC amendments (Pub. L. 104-7) barred filers with investment income of over $2,350 from EITC. Investment income was defined to include taxable interest and dividend income, tax-exempt interest income, and income from rent or royalties outside the normal course of the filer's business.[30]

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[25] Ibid., 22.
[26] Ibid.
[27] Ibid., 23.
[28] Ibid.
[29] Ibid., 24.
[30] Ibid.

In 1996 the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (Pub. L. 104-193) denied EITC eligibility to undocumented workers. Net capital gains and net passive income were added to the "denial income" instituted by the 1995 legislation. To offset the expansion of income sources that were included for purposes of the phaseout, the following losses recognized in determining AGI could be subtracted (thereby enabling more filers to qualify for or receive higher credits from EITC): capital losses, losses from estates and trusts, losses from non-business rent and royalties, and half of net business losses. This legislation also permitted states to count EITC as income available to families aided by Temporary Assistance to Needy Families (TANF) programs, thereby permitting the recipients' TANF benefits to be reduced accordingly. (EITC had not counted against benefits under the AFDC program repealed by PRWORA.)[31]

The Taxpayer Relief Act of 1997 (Pub. L. 105-34) denied the EITC to tax filers who previously made a "fraudulent or reckless" EITC claim. A reckless claim is punished by two years of ineligibility, and a fraudulent claim by 10 years of ineligibility.[32]

The Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107-16) reduced the marriage penalty by increasing phaseout income levels for married couples filing jointly by $1,000 for tax years 2002 through 2004, $2,000 for tax years 2005 through 2007, and $3,000 beginning with tax year 2008 (indexed for inflation). The legislation simplified the definition of "earned income" to include only compensation included in gross income and eliminated the reduction of the EITC for the alternative minimum tax.[33]

The Working Families Tax Relief Act of 2004 (Pub. L. 108-311) provided a uniform definition of "child" for tax purposes (including child tax credit, head of household filing status, and dependent care provisions). The new rules brought uniformity to these filing provisions and the definition used for EITC. Also, combat pay was allowed to be included as income for calculating EITC for tax years 2004 and 2005. The Gulf Opportunity Zone Act of 2005 (Pub. L. 109-135) extended the option of treating combat pay as income for purposes of the EITC for tax year 2006. The act also allowed victims of Hurricane Rita to use tax year 2004 income in calculating tax year 2005 EITCs, if 2005 income was less than the 2004 income.[34]

The Katrina Emergency Relief Act (Pub. L. 109-73) allowed taxpayers affected by Hurricane Katrina to use their tax year 2004 earned income for purposes of computing the 2005 EITC.[35]

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[31] Ibid., 25.
[32] Ibid.
[33] Ibid.
[34] Ibid.
[35] Ibid.

The American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 115-5) made filers with three or more children eligible for the EITC at a credit percentage of 45 percent. The phaseout amounts for married filers were raised by $2,000. These changes apply to TY 2009 and TY 2010.[36]

SIZE AND SCOPE

The federal EITC has steadily grown in relation to other assistance programs. By 1996, the EITC exceeded total AFDC payments, and in 1998 it exceeded the Food Stamp program. As a tax expenditure, the EITC currently exceeds the child tax credit and trails only the general dependent exemption in total cost.[37] The federal EITC cost $43.7 billion in 2006 and assisted roughly 22.4 million households. Table 3 shows the numbers of recipients and the cost of the program from 1997 through 2006.[38]

Table 3

NUMBER OF HOUSEHOLDS RECEIVING AND
COST OF FEDERAL EITC (1997 – 2006)

Tax year	**Number of households receiving EITC (in millions)**	**Total federal cost of EITC (dollars in billions)**
1997	19.4	$30.4
1998	19.7	31.6
1999	19.3	31.9
2000	19.3	32.3
2001	19.0	32.4
2002	20.9	36.9
2003	21.4	38.3
2004	21.7	39.8
2005	22.2	41.4
2006	22.4	43.7

SOURCE: IRS, EITC Statistics (December 8, 2008).

[36] TY (taxable year) 2009 and 2010 refers to taxable years beginning on or after January 1, 2009 or on or after January 1, 2010. This convention is used to determine the applicability of tax rules to tax filers who use a fiscal year other than the calendar year.

[37] Brookings Institution (Holt), "EITC at Age 30," 2.

[38] Internal Revenue Service, Earned Income Tax Credit Statistics (IRS, December 8, 2008) http://www.irs.gov/individuals/article/0,,id=177571,00.html (accessed June 10, 2009).

In 1975 the EITC served 6.2 million families at a cost of $1.2 billion. As of 2001, it was estimated that 4.7 million people, including 2.2 million children, were lifted out of poverty by the credit. It is now significantly larger than the TANF program, which served 2.1 million families at a cost of $24.5 billion, and Food Stamps, which reached 7.4 million families at a cost of $21 billion in 2003.[39]

In tax year 2007, a total of 817,870 Pennsylvania residents received the federal EITC in a total amount of $1,512,470,150, for an average benefit of $1,849.28.[40] A map showing the geographic pattern of recipients in Pennsylvania in 2001 as a percentage of total federal tax returns is available at http://www.brookings.edu/es/urban/eitc/2001/Pennsylvania.pdf (accessed July 28, 2009).

The Center on Budget and Policy Priorities estimates that in fiscal year 2009, 2010, and 2011, the cost of the EITC will grow to $46.5, $48.7 and $49.3 billion, respectively. The Center estimated that Pennsylvania's share of the 2009 EITC will be $1.516 billion, projected to grow to $1.588 billion in 2010 and $1.607 billion in 2011.[41]

PARTICIPATION AND OUTREACH

Some studies show that the EITC has higher participation rates for eligible people than other anti-poverty programs, although participation rates within the EITC program vary considerably. The Government Accounting Office (GAO) estimated that the participation rate for tax year 1999 for filers with one or two qualifying children was 96 percent; for households with three or more children, 62.5 percent; and for households with no children, 44.7 percent.[42] While the participation among different subgroups varied, the participation rate in EITC for all filers remained relatively stable, ranging from 80 to 86 percent from 1990 to 1999. Studies show that between 15 and 25 percent of eligible families do not participate in the program.[43] The Center for Public Policy Priorities estimated in 2005 that approximately $1.2 billion of EITC money went unclaimed in Texas alone because of the number of eligible working poor who did not participate.[44] By comparison, the participation rate for Food Stamps rose from 62 percent

[39] Marguerite Casey Foundation, "EITC Analysis and Proposals," 10.

[40] Internal Revenue Service, "EITC Statistics-at-a-Glance" (IRS, June 3, 2009, showing data as of June 30, 2008) http://www.eitc.irs.gov/central/eitcstats/ .

[41] Center on Budget and Policy Priorities (Jeremy Koulish and Jason Levitas), "How Much Would a State Earned Income Tax Credit Cost in 2009?" (Washington, D.C.: CBPP, March 5, 2008) http://www.cbpp.org/files/3-5-08sfp.pdf (accessed June 10, 2009).

[42] Government Accounting Office, "Earned Income Tax Credit Eligibility and Participation" (Washington, D.C.: GAO, December 14, 2001) http://www.gao.gov/products/GAO-02-290R .

[43] DC Fiscal Policy Institute (Jason Lakin and Ed Lazere), "The District Earned Income Tax Credit: Helping Working Families Escape Poverty" (Washington, D.C: DCFPI, November 4, 2002) http://dcfpi.org/?p=59 .

[44] Center for Public Policy Priorities, "Texas Economy Got $4 Billion Boost from the Earned Income Tax Credit" (Austin: CPPP, February 21, 2005) http://www.cppp.org/files/2/pop_229.pdf .

in 1990 to 87 percent in 1994, before dropping to 64 percent in 1999. The AFDC/TANF programs' participation rate ranged from just above 60 percent in 1990 to a high of 87 percent in 1994 before declining to a low of 52 percent in 1999.[45]

The range of participation rates in the EITC leads analysts to conclude that more people could take advantage of this benefit. To address lack of participation by some eligible filers, outreach efforts have been launched to make more working poor individuals and families aware of the program. The IRS has a large outreach effort that includes a variety of programs targeted at individual filers, tax preparers, and community groups.[46] IRS outreach has taken the form of extensive marketing education initiatives for eligible filers and tax preparers to help them understand eligibility requirements. In FY 2002 and 2003, the IRS spent $31 million for these activities.[47] The IRS's Stakeholder Partnerships, Education and Communication (SPEC) program has reached over 50 million people. SPEC works with media, national partnerships, and community-based coalitions to provide marketing materials that are sent with utility bills, school report cards, IRS forms, and company newsletters. Also, SPEC markets the EITC through direct mailings, advertising, and workshops that are coordinated with the assistance of social service agencies.[48]

The private sector has contributed greatly to EITC outreach. The National EITC Outreach Partnership was founded in 2002 through the guidance of the Annie E. Casey Foundation, the Center on Budget and Policy Priorities (CBPP), the IRS, the National Community Tax Coalition, and the National League of Cities.[49] Thirty-six national organizations participate in the partnership, including private not-for-profit corporations and several Federal government agencies, representing a diverse spectrum of community oriented organizations. Some of these partners, such as America's Second Harvest, work to coordinate the outreach efforts of local community organizations with national organizations such as the SPEC. Others, such as the Brookings Institution, provide data for Outreach Partnership participants so that they can build strategies to market the EITC program more effectively. Partners such as the First Nations Development Institute/Native Financial Education Coalition, Girls, Inc., and the National Black Church Initiative focus their outreach on their respective constituent populations. Still others, such as the CBPP, provide a full range of outreach services, from data gathering and analysis to national and local marketing campaigns. Over 7,000 organizations and agencies work in partnership with the CBPP.

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[45] Tax Policy Center (Bernard E. Leonard and Deborah I. Kobes), "EITC Reaches More Eligible Families than TANF, Food Stamps" (Washington, D.C.: Tax Policy Center, March 17, 2003), 1769 http://www.taxpolicycenter.org/UploadedPDF/1000467_EITC_reaches.pdf .

[46] IRS/EITC, "Welcome to the Partner Toolkit" http://www.eitc.irs.gov/ptoolkit/main/ (accessed July 28, 2009).

[47] Internal Revenue Service, "EITC Reform Initiative" (IRS, November 26, 2003) http://www.irs.gov/newsroom/article/0,,id=110296,00.html .

[48] Ibid.

[49] Center on Budget and Policy Priorities, "The National EITC Outreach Partnership: An Introduction" http://www.cbpp.org/eitc-partnership/intro.htm (accessed August 18, 2009).

The National Chamber of Commerce promotes EITC outreach efforts as part of the program of its Institute for a Competitive Workforce. In partnership with the Annie E. Casey Foundation and the IRS, the Institute sponsored an outreach effort in Miami that led to an additional $62 million in EITC refunds and in San Francisco that resulted in almost $4 million in refunds through filings at its Volunteer Return Preparation Program sites.[50]

EITC OVERPAYMENTS

Because of increasing public demands for efficiency and effectiveness in government programs, the subject of overpayments in the EITC program raises valid concerns. An IRS study estimated that for tax year 1999 the overpayment rate for the EITC was between 27 percent and 31.7 percent and that approximately $8.5 billion to $9.9 billion were paid out erroneously to EITC filers.[51]

These overpayment figures, however, have been questioned by tax policy experts. One study sharply criticized the methodology of the IRS study. In order to gauge the overpayment rates, the IRS surveyed families that had filed for the EITC, and a "significant fraction" of families did not respond to the survey. To determine the minimum overpayment rate, the IRS assumed that the same proportion of non-responders were overpaid as those who did respond. The maximum overpayment rate was derived by assuming that all non-responders were altogether ineligible, yet still received EITC benefits. The study concluded that the overpayment rate was substantial, but was clearly overstated by the IRS study.[52]

Both the U.S. Treasury Inspector General for Tax Administration (TIGTA) and the IRS's own Taxpayer Advocate Service (TAS) also found significant flaws in the IRS study. TIGTA concluded that the audit was flawed due to inconsistent methodology and insufficient data to support its conclusion. TAS also criticized the study:

> Although the tax year 1999 Earned Income Tax Credit compliance study indicates that a significant proportion of claimants have historically not been entitled to the EITC, the National Taxpayer Advocate believes that the study overstates the overclaim rate because it relied exclusively on the

[50] U.S. Chamber of Commerce, Institute for a Competitive Workforce, "Community Building through the Earned Income Tax Credit" (Washington, D.C.: ICW, 2007), 26, 29, 32 http://www.uschamber.com/NR/rdonlyres/etiusifphuoz6bfc7sr55324rmllgpwsehwcjtchdvffuuxo5q6eo4pktt ezgbaojd2qabpc5cv5lggb6j3yym4cotd/EITCToolkitrdc.pdf .

[51] Center on Budget and Policy Priorities (Robert Greenstein), "What is the Magnitude of EITC Overpayments?" (Washington, D.C.: CBPP, June 23, 2003), 1 http://www.cbpp.org/cms/ index.cfm?fa=view&id=1899 .

[52] Ibid.

outcome of EITC audits. TAS data suggests that audit outcomes are frequently incorrect and that a significant number of entitled taxpayers are being denied the credit in error.[53]

Despite these criticisms, reforms to the EITC filing process were made in response to the IRS study. Starting with the 2004 tax filing season, EITC will be denied when submitted by filers who show up in the National Case Registry as the noncustodial parents of the children they are claiming. The so-called "AGI (Adjusted Gross Income) tiebreaker rule" was substantially changed and simplified beginning in tax year 2002. Under the previous rule, custodial parents living with another relative could not claim the EITC for their own children if the relative's income was higher, even if the relative did not claim the EITC. This created confusion and unintentional errors, and in the past was one of the leading causes of erroneous EITC claims. Errors related to this rule, which frequently involved non-parent caretakers of children, have now largely been eliminated. The definitions of earned income and modified AGI used in the EITC were changed to make them consistent with the definitions used for the determination of taxable income and other federal tax purposes. Finally, the residency rule to claim a foster child for the EITC was changed to conform to the same "more than half the year" requirement as for other qualifying children, eliminating another area of inconsistency and potential confusion.[54]

Since 1997, taxpayers whose EITC claims have been disallowed must be recertified as qualified for the EITC before receiving a credit payment in a subsequent year. A tax filer is ineligible to receive the EITC for two years after a determination that the filer improperly received the credit "due to reckless or intentional disregard of rules and regulations (but not due to fraud)" and for ten years if the filer received the credit "due to fraud."[55] The taxpayer who is under disallowance must initiate the process.[56] In 2002, the two-year restriction applied to 8,600 tax filers. As of July 2003, a total of 18,000 taxpayers, less than 0.1 percent of the EITC claimant population, were ineligible due to reckless, intentional, or fraudulent violations of the EITC provisions.[57]

Despite the reforms, the IRS estimated that 23 to 28 percent of EITC claims for tax year 2007 were "erroneous and resulted in overpayments of $11 billion to $13 billion." To reduce the number of erroneous claims, the IRS developed the EITC

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[53] Internal Revenue Service, National Taxpayer Advocate, "The National Taxpayer Advocate's Report to Congress, Fiscal Year 2004 Objectives" (Washington, D.C.(?): IRS, June 30, 2003), 20-21 http://www.irs.gov/pub/irs-utl/nta_fy04_objrpt.pdf .

[54] Center on Budget and Policy Priorities (Robert Greenstein), "Issues to Consider in Assessing IRS Proposals Regarding EITC Pre-Certification" (Washington, D.C.: CBPP, July 23, 2003) http://www.cbpp.org/cms/index.cfm?fa=view&id=2063 .

[55] IRC § 32(k)(1).

[56] Brookings Institution (Holt), "EITC at Age 30," 8; IRC § 32(k)(2).

[57] Brookings Institution (Holt), "EITC at Age 30," 8.

Paid Preparer Compliance Program, an intensive program to monitor and enforce their compliance, and a study of inaccurate EITC claims to determine the relative incidence of intentional disregard of the tax law and mistakes.[58]

HOW EITC BENEFITS ARE SPENT

Several studies have investigated how recipients of EITC refunds plan for and spend their refunds. The bulk of the refund money is used to pay bills, to purchase durable and nondurable goods, and to augment savings accounts.

A survey of how EITC recipients in Georgia planned to use the their refunds in the years 2002, 2003, and 2004 showed that the most common use of refunds among the 2,306 participants was to pay current bills and debt (45.4 percent). About 18 percent of respondents planned to use the refund to catch up on past due bills and debt. Thus, about 63 percent of recipients planned to use the refund to pay current or past debt. Twenty percent planned to use their refunds for the purchase of a vehicle (6.8 percent), a house (6.6 percent), or education (6.6 percent). Just over twelve percent of participants planned to save their refunds for future emergencies and retirement.[59]

A second study examined how consumption patterns of rural families are influenced by the EITC.[60] The study surveyed 299 participants in 13 states, of which six offered state EITCs and seven did not. The results showed that just over 44 percent of respondents used all or nearly all of their refunds to pay bills and loans. The authors found that refunds are "extremely helpful" to the recipients in meeting their financial obligations.[61] The second most common use of refunds was for transportation: approximately 24 percent of participants used their refunds to purchase or repair vehicles, make a down payment on a vehicle, or pay for vehicle insurance.[62]

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[58] Internal Revenue Service, "EITC Due Diligence Compliance Program" (IRS, December 24, 2008) http://www.irs.gov/individuals/article/0,,id=179024,00.html .

[59] Mary Linnenbrink, et al., "The Earned Income Tax Credit: Experiences from and Implications of the Voluntary Income Tax Assistance Program in Georgia" Eastern Family Economics and Resource Management Association 2006 Conference, 15 http://mrupured.myweb.uga.edu/conf/2.pdf .

[60] Sheila Mammen and Frances Lawrence, "Use of the Earned Income Tax Credit by Rural Working Families," Eastern Family Economics and Resource Management Association 2006 Conference, 30 http://mrupured.myweb.uga.edu/conf/4.pdf .

[61] Ibid., 33.

[62] Ibid.

Another large expenditure for recipients is in consumer nondurables. This category is mostly made up of child-specific items, such as clothing, toys, and school supplies, but includes adult clothing and food as well. Approximately 19 percent of survey participants spent a portion of their refund on these goods.[63] Sixteen percent of recipients used their refunds to build savings and assets.[64]

Consumer durables, particularly big-ticket items, are typically difficult for low-income families to purchase. The EITC refund helps them to afford these items, which include furniture, refrigerators, washing machines, and televisions and other entertainment equipment. Approximately ten percent of respondents planned to use some portion of their refund on these items.[65]

About ten percent of recipients spent the refund on vacations and other discretionary expenditures. Three percent of recipients responded that they would spend their refunds on expenditures related to what economists term "human capital." Of those who spent in this manner, 40 percent used the money to pay off student loans and 60 percent purchased a new computer.[66]

Slightly more than one-third of eligible rural families did not apply for the EITC, and those who did were frequently confused by it. The authors recommended that more be done to publicize the benefits EITC provides to working families.[67]

A third study used data from the U.S. Bureau of Labor Statistics' Consumer Expenditure Survey for the years 1997-2006. The study found that EITC refunds increased expenditures on both durable and non-durable goods. Expenditures were highest in February, the month when the bulk of refunds are received. The durables purchased were most often vehicles, and nondurable expenses were most often vehicle repairs.[68] These results were consistent with other surveys, and consistent with results from a study finding that about 88 percent of low-income individuals rely on private vehicles for transportation to and from work.[69]

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[63] Ibid., 34.
[64] Ibid.
[65] Ibid.
[66] Ibid., 34, 35.
[67] Ibid.
[68] Andrew Goodman-Bacon and Leslie McGanahan, "How Do EITC Recipients Spend Their Refunds?" Federal Reserve Bank of Chicago, *Economic Perspectives*, 2Q/2008, 20 http://www.chicagofed.org/publications/economicperspectives/ep_2qtr2008_part2_goodman_etal.pdf .
[69] Brookings Institution, (Evelyn Blumenberg and Margy Waller), "The Long Journey to Work: A Federal Transportation Policy for Working Families" (Washington, D.C.: Brookings Institution, July 2003), 4 http://www.brookings.edu/~/media/Files/rc/reports/2003/07transportation_waller/20030801_Waller.pdf .

A fourth study of reported expenditures by EITC recipients divided respondents' plans into two categories, "making ends meet" and "improving economic and social mobility."[70] Nearly 65 percent of respondents planned to use their refunds for making ends meet (i.e. consumption, rent, utilities, food, and clothing). Seventy percent planned to use their refunds for improving economic and social mobility by spending on cars and education. Families with more children were more likely to spend on consumption and less likely to spend on economic and social mobility.[71] The researchers observed that EITC money significantly affects economic behavior: "Without the EITC, almost one-half could not have met their first priority use for the EITC, while most of the rest could meet their need only to a lesser extent or with some delay."[72]

This research indicates that EITC recipients tend to plan the use of their refunds and spend much of it on vehicles and vehicle repairs. The EITC program thus provides recipients not only an incentive to work but also the means to make their employment possible.

EVALUATION OF THE FEDERAL EITC

The EITC is widely viewed as an effective policy and has maintained bipartisan support. It is praised for efficiently providing significant benefits to working families as well as an incentive for individuals to enter the work force. In 2009, a single parent who earns $7.50 per hour, works 40 hours per week, and has one child can effectively raise her income by $1.46 per hour through EITC. The key to the effectiveness of EITC in increasing the income of its beneficiaries is the refundability feature, which "allows low-income workers who miss out on the benefits of most tax credits and deductions to take full advantage of the incentives offered through the EITC."[73]

One study concluded that the EITC program accounted for "over 60 percent of the increase in the weekly and annual employment of single mothers between 1984 and 1996."[74] Nobel Prize winning economist Gary Becker supports EITC's usefulness in encouraging Americans to work: "Empirical studies confirm the prediction of economic theory that the EITC increases the labor force participation and employment of people with low wages because they need to work in order to receive this credit."[75] The

[70] Timothy M. Smeeding, Katherin Ross Phillips, and Michael O'Connor, "The EITC: Expectation, Knowledge, Use and Economic and Social Mobility" *National Tax Journal*, vol. 43 (2000), 1202 http://apps.olin.wustl.edu/macarthur/working%20papers/smeeding-eitc.pdf .

[71] Ibid.

[72] Ibid., 1203.

[73] Brookings Institution (Holt), "EITC at Age 30," 5.

[74] Marguerite Casey Foundation, "EITC Analysis and Proposals," 10.

[75] Gary Becker, "How to End Welfare 'As We Know It' Fast," *Business Week* (June 3, 1996), 22.

Treasury Department agreed that the program encourages work and alleviates poverty. In contrast to the minimum wage, the EITC affords these advantages "without imposing a cost on employers."[76]

The Institute on Taxation and Economic Policy emphasizes the bipartisan support for the EITC:

> The federal EITC is an effective anti-poverty strategy that is recognized by lawmakers of all political affiliations as an important way of rewarding work. Legislation expanding the federal EITC has been approved by Presidents Reagan and Clinton as well as both Bush administrations. It currently lifts roughly four and a half million families out of poverty.[77]

There have been criticisms of the EITC as well. It has been faulted for failing to reach all those who are eligible for it and for excluding Americans who stand in as much need of assistance as those who qualify. The overall participation rate is 75 to 86 percent, and is probably lower among immigrant populations. This is a higher rate than rates achieved by other welfare programs, but still leaves out millions of eligible families. Even after the 2009 amendments, families with more than three children do not receive additional benefits, and single, childless workers receive little assistance. More generally, it has been argued that the program does not fully accomplish the goal of offsetting payroll taxes and encouraging people to leave welfare for work.[78] Another problem noted with the EITC is its complexity. The credit requires the tax filer to fill out a separate tax schedule in compliance with IRS Publication 596, which is 56 pages in length as of TY 2008. Not surprisingly, much of the benefit of the credit is eaten up by tax preparation fees. Seventy-two percent of tax filers claiming EITC use a paid preparer, as compared to 60 percent of all taxpayers, at an average cost to the filer of $120.[79]

An analysis of the federal EITC performed by the research staff of the Minnesota House argues that the incentive to work depends upon where the filer's income stands in relation to the benefit structure provided by the credit. Recall that this structure has four divisions: at the lowest income level, the credit rises with income; at a higher level, the credit plateaus, so that the credit neither increases nor decreases with rising income; at the phaseout level, rising income decreases the credit amount; and at incomes above complete phaseout, the EITC has no effect on the labor/leisure tradeoff. Work and leisure compete for an individual's time, a tradeoff economists call the "substitution effect." At incomes rising from $0, the credit successively increases, has no effect, decreases, and has no effect on the desirability of choosing more paid work over one's

[76] Marguerite Casey Foundation, "EITC Analysis and Proposals," 11.
[77] Institute on Taxation and Economic Policy, "Rewarding Work," 2.
[78] Marguerite Casey Foundation, "EITC Analysis and Proposals," 11.
[79] Ibid.

current levels of leisure or unpaid work. The decreased incentive for labor in the phaseout income levels unavoidably accompanies any credit that includes a phaseout. On balance, the EITC increases total work effort, but only by a small amount.[80]

A highly critical comment on the development of the federal EITC argues that it is a manifestation of a strategy whereby business interests use their influence to gain assistance from the taxpaying public to keep wages low. In this view, the EITC serves as an alternative to raising the minimum wage. The EITC is more advantageous than the minimum wage to service businesses that rely heavily on low-wage employees. Under the EITC, the cost of paying a worker barely enough to live on can be partly externalized to the taxpayer, whereas under the minimum wage, the employer must bear all of that cost. The other part of the strategy is to drive parents and unskilled persons into the work force by eliminating cash assistance to them. The article concludes that the total cost of welfare is no smaller than it was at the height of the welfare state, but instead of permitting citizens alternatives to low-wage work, the government funds help "commodify" the poor by cutting off all alternatives to paid labor.[81]

[80] Minnesota House of Representatives, Research Department, "The Federal EITC and the Minnesota Working Family Credit" (St. Paul: December 2007), 19-21.

[81] Pamela Herd, "The Fourth Way: Big States, Big Business, and the Evolution of the Earned Income Tax Credit" http://www.irp.wisc.edu/newsevents/seminars/Herd_4_10_2007.pdf (accessed May 12, 2009).

CHAPTER 2
STATE EARNED INCOME TAX CREDIT

Twenty-two states and the District of Columbia currently provide for a state EITC, and, except for Minnesota and Wisconsin, all of them use the piggyback structure, that is, the state's EITC is a fixed percentage of the federal EITC. This method makes it easy for filers to calculate, since they need only apply the mandated percentage to the federal EITC, and it is easy for state tax officials to administer. In states that use the federal EITC as a base and have a refundable credit, the credit percentage ranges from 5 to 50 percent. Six states set the credit at 25 percent or more of the federal EITC, while eleven states allow less than ten percent. In three states the EITC is not refundable and in two the credit is only partially refundable.[82]

The basic provisions of the EITCs of other states are summarized in Table 4. The statutory provisions themselves are collected in Appendix B, in order that they may assist in the drafting of Pennsylvania legislation.

In Colorado, the EITC has been suspended due to fiscal difficulties:

> From 1999 to 2001, Colorado offered a 10 percent refundable EITC financed from required rebates under the state's "TABOR" [Taxpayer's Bill of Rights] amendment. Those rebates, and hence the EITC, were suspended beginning in 2002 due to lack of funds and again in 2005 as a result of a voter-approved five-year suspension of TABOR. Under current law, the rebates will resume in 2011, but a recent income tax cut that also depends on the rebates is likely to exhaust the funds, leaving the EITC unfunded.[83]

[82] Institute on Taxation and Economic Policy, "Rewarding Work," 2.

[83] Center on Budget and Policy Priorities (Jeremy Koulish and Jason Levitas), "State Earned Income Tax Credit: 2008 Legislative Update" (Washington, D.C.: CBPP, October 8, 2008) http://www.cbpp.org/cms/index.cfm?fa=view&id=462 . The EITC legislation is Col. Rev. Stat. § 39-22-123. TABOR is art. X, § 20 of the Colorado Constitution. Because the enacted EITC is not operative in Colorado, it is not included in the counts of states with the EITC and various forms of EITC.

Table 4

STATE AND LOCAL EARNED INCOME CREDITS

State	Citation	Year enacted	Credit percentage	Refundability
Colorado *Suspended*	Colo. Rev. Stat. § 39-22-123	1989	10	Yes
Delaware	Del. Code tit. 30, § 1117	2005	20	No
District of Columbia	D.C. Code § 47-1806.4	2000	40	Yes
Illinois	35 Ill. Comp. Stat. § 5/212	2000	5	Yes
Indiana	Ind. Code §§ 6-3.1-21-1—6-3.1-21-10	1999	6[1]	Yes
Iowa	Iowa Code tit. 10, § 422.12B	1989	7	Yes
Kansas	Kan. Stat. § 79-32,205	1998	17	Yes
Louisiana	La. Rev. Stat. § 47:297.8	2007	3.5	Yes
Maine	Me. Rev. Stat. tit. 36, § 5219-S	1999	5	No
Maryland	Md. Code Tax–Gen. § 10-704	1987	50	25% Fed. EITC
Massachusetts	Mass. Gen. Laws ch. 62, § 6	1997	15	Yes
Michigan	Mich. Comp. Laws § 206.272	2006	20	Yes
Minnesota	Minn. Stat. § 290.0671	1992	25% (no children) 33% avg. (children)[2]	Yes
Nebraska	Neb. Rev. Stat. § 77-2715.07	2006	10	Yes
New Jersey	N.J. Stat. § 54A:4-6–54A:4-10	2000	25	Yes
New York	N.Y. Tax Law § 606	1994	30	Yes
North Carolina	N.C. Gen Stat. § 105-151.31	2007	5	Yes
Oklahoma	Okla. Stat. tit. 68, § 2357.43	2001	5	Yes
Oregon	Or. Rev. Stat. § 315.266	1997	6	Yes
Rhode Island	R.I. Gen. Laws § 44-30-2.6	1986	25	15% Fed. EITC
Vermont	Vt. Stat. tit. 32, § 5828b	1987	32	Yes
Virginia	Va. Code tit. 58.1, § 339.8	2004	20	No
Washington[3]	Wash. Rev. Code § 82.08.0206	2008	5	Not applicable
Wisconsin	Wis. Stat. § 71.07(9e)	1989	One child–4%; two children–14%; three or more children–43%	Yes

1. See http://www.in.gov/dor/3803.htm#earnedincome (accessed July 17, 2009).
2. Formula independent of federal formula.
3. Credit is against sales and use tax.

SOURCE: Connecticut Office of Legislative Research (Judith Lohman), "State Earned Income Tax Credits" (Hartford, Conn: OLR, January 12, 2007) http://www.cga.ct.gov/2007/rpt/2007-R-0053.htm ; State EITC Online Resource Center http://www.stateeitc.com/map/2009_stateeitc_chart.xls (accessed June 10, 2009); Findlaw State Resources http://www.findlaw.com/11stategov/index.html (accessed June 10, 2009); Brookings Institution (Holt), "EITC at Age 30," 5.

The Minnesota Working Family Credit is a state EITC that uses a benefit formula independent of the federal formula, but is like other state EITCs in requiring eligibility for the federal credit. This formula, set forth in Table 5, "attempts to mitigate high 'effective tax rates' faced by claimants as public benefits, such as food stamps and Medicaid phase out simultaneously with the federal credit."[84] The Wisconsin EITC varies the credit percentage based on the number of children in the family.

Table 5

MINNESOTA WORKING FAMILY CREDIT (2008)

	No qualifying children	**One qualifying child**	**Two or more qualifying children**
Married couple filing jointly			
Credit calculation	1.9125% of first $5,730 of earned income	8.5% of first $8,580 of earned income, plus 8.5% of earned income between $14,990 and $16,990	10% of first $12,060 of earned income, plus 20% of earned income between $18,440 and $20,840
Maximum credit	$110	$874	$1,686
Credit phaseout	1.9125% of earned income or AGI over $10,160	5.73% of earned income or AGI over $21,710	10.3% of earned income or AGI over $25,190
Maximum income eligible	$15,890	$36,960	$41,559
Single and head of household			
Credit calculation	1.9125% of first $5,730 of earned income	8.5% of first $8,580 of earned income, plus 8.5% of earned income between $14,990 and 16, 990	10% of first $12,060 of earned income, plus 20% of earned income between $18, 440 and $20,840
Maximum credit	$110	$874	$1,686
Credit phaseout	1.9125% of income or AGI over $7,160	5.73% of earned income or AGI over $18,710	10.3% of earned income or AGI over $22,190
Maximum income eligible	$12,890	$33,960	$38,559

SOURCE: Minnesota House Research Department, "Federal EITC and the Minnesota Working Family Credit," 10; Minnesota Department of Revenue, "Working Family Credit Table Formulas (Tax Year 2008)" at http://www.taxes.state.mn.us/taxes/individ/algorithms/wfc_algorithm.pdf .

[84] Brookings Institution (Holt), "EITC at Age 30," 5; *see* Thomas MaCurdy, "Evaluating State EITC Options for California" (San Francisco: Public Policy Institute of California, 2004), 24.

A study sponsored by the Public Policy Institute of California analyzed the effect of other alternatives to the piggyback EITC, both in terms of work incentives and benefits. The alternatives considered were a credit phased in and phased out to target a specific income range, forming a triangle rather than the classic federal EITC plateau; a wage-based method that adjusts the credit for hours worked in order to give a more generous benefit for full-time than for part-time work; and a mechanism for making up part of the gap between the federal minimum wage and a higher standard wage.[85] Another study from California mentions in passing an alternative that would vary the credit percentage depending on whether the tax filer was in the phase-in, plateau, or phaseout income level.[86] The study recommends the adoption of a wage supplement targeted to earners in the EITC phase-in range instead of an EITC because a wage supplement might get more favorable treatment under TANF regulations than an EITC.[87] These very complex proposals have not been adopted in any state, and specialists in tax policy would be required to do a fully competent evaluation of them.

Attempts have been made to establish a tax relief program tied to the EITC for Pennsylvania. In the 2005-06 legislative session, House Bill 1997 proposed an elective PIT refund “in the amount by which 30% of the [EITC] exceeds the [PIT] for the taxable year” for TY 2006 and thereafter. This concept was reintroduced in the 2007-08 legislative session as House Bill 377, which eventually became 2008 Act No. 66, the enabling legislation for this study. The first version of HB 377 (P.N. 441) picked up the language of HB 1997, carried forward to TY 2007 and thereafter. The second version (P.N. 2809) proposed an elective EITC at a credit percentage of 30 percent. The third version (P.N. 2849) proposed a 15 percent elective EITC for TY 2008 and a 30 percent elective EITC for TY 2009 and thereafter. The fourth version (P.N. 3094) included the same proposal as part of omnibus amendments to the TRC; this version was passed by the House. The fifth version (P.N. 4086) stripped all provisions relating to the EITC, substituting a phase-in of increases to the SP thresholds. The sixth version (P.N. 4195) provided for the study of the EITC that culminates in this report. That version was passed by the Senate, the House concurred in the Senate amendments, and it was signed into law by the Governor on July 9, 2008.

STATE OUTREACH

As with the federal EITC, state EITCs are often underutilized because eligible tax filers are unaware of their existence. To address this, many state governments are using outreach initiatives. According to the National Governors Association Center for Best Practices, states are:

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[85] MaCurdy, Evaluating State EITC Options, 25-62.

[86] Kirk J. Stark, “Should California Adopt an Earned Income Tax Credit?” (Los Angeles: UCLA School of Law, January 2006), 21.

[87] Ibid., 25-29.

- Increasing awareness of the EITC by airing public service announcements and posting information in public places, using the Internet to disseminate information, and holding briefings and other events;
- Publicizing the availability of free tax preparation services;
- Supporting the expansion of free tax preparation services;
- Using the EITC as a vehicle for building assets by offering EITC filers financial literacy classes, providing them information on credit repair, and linking them with opportunities to establish bank accounts.[88]

These state initiatives include the following:

California. The state's Cash for College workshops, which provide financial aid counseling to low-income families of college students, includes EITC information in its offerings.[89]

Illinois. The state hosts a website that provides EITC information and directs people to free tax preparation sites. The state uses TANF and Maintenance of Effort (MOE) money to support free tax preparation sites. In 2004, $380,000 was spent on free tax preparation and $30 million was received in the form of EITC refunds.

Indiana. The state hosts a website that provides EITC information and directs people to free tax preparation sites.[90]

Louisiana. The governor, public officials, and faith-based leaders participated in television and radio ads as part of a public awareness campaign. State law requires that welfare recipients be notified orally and in writing about the EITC. The Departments of Social Services, Labor, and Revenue partnered with the IRS to establish the Louisiana Tax Assistance Preparation and Information Network. TANF money is used to help support Volunteer Income Tax Assistance (VITA) sites, which have increased EITC refunds by ten percent.[91]

Maryland. In 2004, the statewide EITC campaign was joined by electric utility companies PEPCO and Connectiv, which helped open twelve new VITA sites.

[88] National Governors Association, NGA Center for Best Practices (Courtney Smith), "State Efforts to Support Low-Income Families and Communities Through the Earned Income Tax Credit" (Washington, D.C.: National Governors Association, February 16, 2006) http://www.nga.org/Files/pdf/06StateEffortCommunities.pdf .

[89] Ibid.

[90] Ibid.

[91] Ibid.

Massachusetts. The Massachusetts Earned Income Tax Credit Campaign conducts extensive outreach initiatives. Its focus is on promoting tax preparation assistance (including the EITC), financial literacy, and asset building. Partners include the state Office of Access and Opportunities, the IRS, Boston Earned Income Tax Credit Campaign, the Massachusetts Association for Community Action, the Massachusetts Legal Assistance Corporation, the Massachusetts Service Alliance, the Massachusetts Campus Compact, the MIDAS Collaborative, and the member organizations of each.[92]

Michigan. In 2002 it was estimated that $400 million of EITC refunds went unclaimed. As a result, $500,000 in TANF funding was redirected to support EITC awareness, including free tax preparation.[93] The governor's office hosts a website that provides information on the EITC and directs people to the free tax preparation sites. Approximately $32 million was refunded through this initiative. Michigan's outreach coalition is funded by the Michigan Department of Human Services and is administered under contract by the Michigan Poverty Law Program, the Michigan League for Human Services, and Michigan State University. Twenty-six statewide organizations participate in the coalition. [94]

New York. The state Office of Temporary and Disability Insurance and the New York City Office of Financial Empowerment host websites that have information available for low-income filers for both the federal and state EITCs. [95]

Texas. The state hosts a website that provides EITC information on the federal EITC and directs people to free tax preparation sites.

Washington. Local workforce development sites provide computers and software for patrons to complete their own EITC returns. The state reported an increase of 16.5 percent in refunds for 2003 through this initiative.[96]

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92 Commonwealth of Massachusetts, Executive Office for Administration and Finance (ANF), "Massachusetts Earned Income Tax Credit Campaign" (Boston: ANF, 2009) http://www.mass.gov/?pageID=afterminal&L=5&L0=Home&L1=Employment%2c+Equal+Access%2c+Disability&L2=Diversity%2c+Access+%26+Opportunity&L3=Access+and+Opportunities&L4=Massachusetts+Earned+Income+Tax+Credit+Campaign&sid=Eoaf&b=terminalcontent&f=anf_meitcc&csid=Eoaf (accessed August 4, 2009).

93 NGA, "State Efforts."

94 Michigan Statewide Earned Income Tax Credit Coalition, "Give Your Paycheck a Boost!" http://www.michiganeic.org/index_html (accessed August 4, 2009).

95 City of New York, Department of Consumer Affairs, Office of Financial Empowerment, "Tax Credit Campaign: It's Tax Time. Go Get Your Refund!" http://www.nyc.gov/html/ofe/html/poverty/taxcredit.shtml (accessed August 4, 2009).

96 NGA, "State Efforts."

ESTIMATED COST OF PENNSYLVANIA EITC

To estimate the cost of an EITC for Pennsylvania without changing any other tax provisions, the Pennsylvania percentage of the national EITC credits is applied to the total national EITC credits. This amount should be adjusted for the participation rate, which can also be assumed based on the experience of the same states. The amount is then multiplied by the state credit percentage—the percentage of the federal credit that can be claimed for the state credit under the enabling legislation. With no existing Pennsylvania EITC, the state credit percentage can be assumed at various levels.

For 2006, Pennsylvania tax filers accounted for 3.26 percent of the total federal EITC credits received by U.S. tax filers: $1.414 billion credited to Pennsylvania tax filers divided by the U.S. total of $43.353 billion.[97] The total cost of the federal EITC is projected to be $48.7 billion and $49.3 billion in 2010 and 2011, respectively. Applying Pennsylvania's percentage to the projected total cost of the federal EITC claims yields an estimated state tax expenditure of up to $1.588 billion in 2010 and $1.607 billion in 2011.

A portion of the federal EITC claimants fail to claim the state's EITC, particularly in the first few years after it is instituted. The cost of the state EITC should be reduced by at least ten percent to reflect this participation gap. After this adjustment the estimated tax expenditure comes to $1.429 billion in 2010 and $1.446 billion in 2011.

Pennsylvania's tax expenditure corresponding to various credit percentages is shown in Table 6. These numbers represent the cost of simply adding an EITC with no other changes to current tax law. The fiscal cost is directly proportional to the credit percentage. These estimates assume the credits are fully refundable.[98] The amounts do not include administrative costs, such as changing tax forms and processing claims, but these costs are likely to increase the overall cost of the credit by less than one percent. Nor do the estimates reflect the recent expansion of the federal EITC under the American Recovery and Reinvestment Act of 2009 (ARRA), which increased the income limits for married filers and added an eligibility category for families with three or more children; these new provisions would likely increase the cost of a piggyback state EITC slightly.

In view of the constrained fiscal circumstances facing the Commonwealth, proponents of the state EITC may consider starting at a low credit percentage and then increase as revenue growth permits, as was the plan followed by Maryland. The EITC in Maryland was initiated as a ten percent credit in 1998, and was increased to 12.5 percent

[97] Center on Budget and Policy Priorities, (Koulish and Levitas), "How Much Would a State EITC Cost?"

[98] Because little interest has been expressed in a nonrefundable state EITC and only three states have adopted it, staff did not attempt to calculate its cost. One of the states that uses a nonrefundable EITC also has a provision that exempts individuals and families with income below a statutory minimum from liability for state income tax. Va. Code § 58.1-321A, set forth in Appendix C.

in 2000, 15 percent in 2001, and to the current 20 percent level in 2003.[99] The New Jersey statute set forth in Appendix B also illustrates implementation through a gradually increasing credit percentage.

The alternative of simply adding the EITC to the current system is clearly not an attractive one, especially in the current fiscal climate, because it would permit current SP recipients to receive the full advantage of two overlapping benefits. It is described and costed out here because it represents, in one sense, the cost of adopting an EITC. In Chapter 4, two other alternatives are presented, both less expensive than add-on: (1) replacement of SP with EITC; and (2) adding EITC as an elective to SP, so that a recipient would choose one or the other, but could not receive both.

Table 6

ESTIMATED FISCAL COST OF ADDING A PENNSYLVANIA
EITC BY YEAR AND CREDIT PERCENTAGE
(Dollars in millions)

Credit percentage	FY 2010	FY 2011
3.5%	$50.0	$50.6
5.0	71.4	72.3
10.0	142.9	144.6
15.0	214.3	216.7
20.0	285.8	289.3
25.0	357.2	361.6
30.0	428.7	433.9
35.0	500.1	506.3

NOTE: Amounts calculated based on Pennsylvania share of all federal EITC payments.

SOURCE: Data from Brookings, "EITC Interactive."

99 Pennsylvania, House Appropriations Committee, Democratic Staff, "Pennsylvania Earned Income Tax Credit Proposal: Providing Working Families an Alternative to PIT Tax Forgiveness" (Harrisburg: January 26, 2007).

FUNDING FOR STATE EITC

The most obvious source of funding for the EITC is the General Fund. The largest sources of funding for the General Fund are the PIT ($10.75 billion estimated receipts for FY 2009-10) and sales tax ($8.39 billion); the estimated total receipts for the General Fund was $26.57 billion.[100] Using simple arithmetic, a rough estimate of the budgetary impact in terms of revenue increases can be calculated, though this estimate ignores changes in behavior in response to tax increases. For instance, the cost of the EITC at a 20 percent credit percentage ($285.8 million) would represent 2.7 percent of PIT revenues, and if funded entirely from the PIT would raise the rate from 3.07 to 3.15 percent. The same cost would represent 5.4 percent of the sales tax revenues, and if funded entirely from the sales tax, would increase the statewide sales tax from 6 to 6.2 percent. The cost of a 20 percent EITC would represent 1.1 percent of all General Fund revenues, and could be funded by an across-the-board tax increase of that percentage in all taxes whose receipts are allocated to that fund. Of course, the EITC could be funded in whole or part by expenditure cuts, such as a 1.1 percent cut in all programs funded from the General Fund.

An alternative to higher taxes as a source of revenue for all or part of a state EITC is the federal Temporary Assistance to Needy Families (TANF) block grant. TANF was instituted under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as a replacement for Aid to Families with Dependent Children (AFDC).[101] It is structured to give the states considerable flexibility in determining how the grant money is to be used:

> Under the TANF structure, the federal government provides a block grant to the states, which use these funds to operate their own programs. States can use TANF dollars in ways designed to meet any of the four purposes set out in federal law, which are to: "(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) encourage the formation and maintenance of two-parent families."[102]

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[100] Commonwealth of Pennsylvania, Office of the Governor, *Governor's Executive Budget (2009-10)* (Harrisburg: OG, February 4, 2009), A2.17. Of course, the current recession proved these estimates to be overly optimistic.

[101] Center on Budget and Policy Priorities (Liz Schott), "Policy Basics: An Introduction to TANF" (Washington, D.C.: CPPP, March 19, 2009), 2 http://www.cbpp.org/cms/?fa=view&id=936 . Funding for TANF is currently authorized under the Deficit Reduction Act of 2005 through federal FY 2010 (i.e., to September 30, 2010).

[102] Ibid., 1

Current federal regulations permit states to finance part of a refundable EITC through the TANF grant. Ten states use TANF or Maintenance of Effort (MOE) funds to defray EITC costs.[103] However, a leading proponent of the state EITC cautions that "[m]ost states have very limited availability of [TANF] funds . . . because the value of the TANF block grant has eroded over time and because states face costly new work requirements under the most recent federal budget law."[104]

In FY 2008-09, Pennsylvania received $545.6 million in TANF funds, of which $529.1 million was appropriated to the Department of Public Welfare. The largest share of these funds were expended on cash grants ($227.4 million), New Directions ($138.0 million), child welfare ($67.9 million), county assistance offices ($44.2 million), child care assistance ($28.5 million), and youth employment and training ($15.0 million).[105] Diverting TANF funds to a state EITC would mean that some or all of these other programs would be cut or would need to find supplemental funding elsewhere.

This report expresses no opinion as to how funding to defray the tax expenditure resulting from the adoption of an EITC should be apportioned among tax increases, expenditure cuts, and allocations of federal funds.

EVALUATION OF STATE EITC

From 1997 to 2006 the minimum wage lost 20 percent of its buying power because of inflation.[106] "[B]ecause the EITC is tied to workers' earnings, flat wages often result in a flat EITC—and reduced buying power over time."[107] Adjustments to the federal EITC over time have failed to keep pace, undermining the economic stability of

[103] National Conference of State Legislatures, "Earned Income Tax Credit (EITC)" (Denver: NCSL, 2009) http://www.ncsl.org/IssuesResearch/HumanServices/EarnedIncomeTaxCreditsEITC/tabid/16311/Default.aspx . Maintenance of Effort (MOE) refers to the state funds that must be spent on services to needy families in order for a state to qualify for its full share of TANF funding.

[104] Center on Budget and Policy Priorities (Ifie Okwuje and Nicholas Johnson) "A Rising Number of State Earned Income Tax Credits Are Helping Working Families Escape Poverty" (Washington, D.C.: CBPP, October 20, 2006), 5.

[105] Pennsylvania Department of Public Welfare, General Fund/Tobacco Settlement Fund: Prepared for Appropriations Committee Hearings by DPW (March 2009), 361 http://www.dpw.state.pa.us/Resources/Documents/Pdf/AnnualReports/YearlyBudget/AnnualReport2009-10.pdf . In addition, $2 million or less each was spent on each of the following programs: Alternatives to Abortion, child care services, and the Nurse-Family Partnership, and $20.5 million went to state and county administration and information systems.

[106] Center on Budget and Policy Priorities (Jason A. Levitis and Nicholas Johnson), "Together, State Minimum Wages and State Earned Income Tax Credits Make Work Pay" (Washington, D.C.: CBPP November 2006) http://www.cbpp.org/cms/?fa=view&id=369 .

[107] Ibid.

low-income wage earners. After payroll taxes, low-income wage earners have less buying power each year even when the federal EITC is provided.[108] The addition of a state EITC can help fill this gap. It seems reasonable to assume that a state EITC will augment the effects of a federal EITC, especially if the state EITC is a refundable piggyback provision.

Advocates for the poor have supported the state EITC as a measure to alleviate poverty, while providing an incentive for low-income earners to become productive members of the labor force. The Charles Stewart Mott Foundation reported that the economy in recent years has had a significant impact on working families by reducing the reach of programs that the poor rely on, such as health care, funded child care, and job training.[109] Piggyback state EITCs help families who are affected by these cuts.

> Even with the current federal and state EITC programs, some low-income people are working full-time or more than full-time and still don't earn enough to support their families adequately. Raising the state EITC benefits would be a direct way to address that problem by providing additional income to people who work hard, play by the rules, and still have trouble getting by.[110]

In areas like Washington, D.C., where the federal EITC is not sufficient to raise working families above the federal poverty level, the District's refundable piggyback EITC adds enough income to raise minimum wage earning families to just above the poverty line.[111] Ed Lazere, executive director of the DC Fiscal Policy Institute, strongly supports the EITC established by that jurisdiction:

> For folks who leave welfare for work, the combined state and federal credits offer a substantial economic boost that can further help them build assets—such as purchasing homes and paying for educational opportunities—and improve their families' lives. That can be a very powerful motivating force.[112]

Nick Johnson, director of the CBPP's State Fiscal Project said that state EITCs are increasingly recognized as being integral to states' anti-poverty efforts:

> A successful anti-poverty campaign has to include connecting low-income families to affordable housing and child care, as well as making living-wage jobs both available and accessible. But it must also incorporate income supports like the state EITC, which play a key role in helping poor families actually work their way out of poverty.[113]

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[108] Ibid.

[109] Charles Stewart Mott Foundation, "Tax Credits Provide Boost for Low-Income Families" September 2003 http://www.mott.org/recentnews/news/2003/EITC.aspx?print=1 p. 2.

[110] Ibid.

[111] DC Fiscal Policy Institute, "District EITC: Helping Working Families."

[112] Mott Foundation, "Tax Credits Provide Boost," 2.

[113] Ibid., 1.

Advocates of the state EITC also claim that it helps offset regressive taxes: "[t]he high state and local tax burden on the poorest Americans is primarily due to the heavy use of regressive sales and property taxes. A refundable EITC is the most effective targeted tax relief strategy currently used by states to reduce the unfairness of these taxes."[114] Nationwide, middle- and low-income families pay ten and over eleven percent, respectively, of their incomes in state and local taxes, while the richest one percent of taxpayers pay approximately 5.2 percent of their income. In Pennsylvania, the poorest 20 percent of taxpayers pay 11.4 percent of their income in state taxes, the middle 60 percent pay 9.0 percent of income, and the wealthiest one percent pays 4.8 percent of income.[115]

Local economies can benefit by the infusion of EITC refunds. A Brookings Institution report estimated that a refundable Pennsylvania EITC at a 30 percent credit percentage would have added $57 million to the income of low-income working families in Philadelphia in 2001.[116] The federal EITC increased consumer spending by $2 million per square mile in Chicago.[117] In the first few months of 2003, Cuyahoga County, Ohio, received as much in EITC refunds as the wages and salaries earned in the county's hotel sector.[118] These added dollars create a "multiplier effect,"[119] which is the additional economic activity generated by each dollar put into circulation. It has been estimated that the multiplier effect is at least $1.07 for each dollar of EITC refunded.[120]

[114] Institute on Taxation and Economic Policy, "Rewarding Work," 2.

[115] Institute on Taxation and Economic Policy, "State & Local Taxes Hit Poor & Middle Class Far Harder than the Wealthy" (Washington, D.C.: ITEP, January 7, 2003), 3 http://www.itepnet.org/wp2000/pr.pdf .

[116] Brookings Institution (Alan Berube and Benjamin Forman), "Rewarding Work: The Impact of the Earned Income Tax Credit on Greater Philadelphia" (Washington, D.C.: Brookings Institution, June 2001), 1 http://www.brookings.edu/es/urban/eitc/philadelphia.pdf .

[117] Brookings Institution (Alan Berube and Benjamin Forman), "Rewarding Work: The Impact of the Earned Income Tax Credit in Chicago" (Washington, D.C.: Brookings Institution, June 2001), 2 http://www.brookings.edu/es/urban/eitc/chicago.pdf .

[118] Alan Berube, "Using the Earned Income Tax Credit to Stimulate Local Economies" (New York: Living Cities, [2006]), 3 http://www.brookings.edu/~/media/Files/rc/reports/2006/11childrenfamilies_berube/Berube20061101eitc.pdf .

[119] Brookings Institution, "EITC Interactive: User Guide and Data Dictionary," http://www.brookings.edu/metro/EITC/EITC-Data.aspx (accessed on July 22, 2009).

[120] Federal Reserve Bank of Atlanta (John N. Haskell), "EITC Boosts Local Economies" *Partners* Vol. 16, No. 3, (2006) http://www.frbatlanta.org/invoke.cfm?objectid=97636FAC-5056-9F12-128E4F3C0244A481&method=display_body .

CHAPTER 3
THE SPECIAL PROVISIONS PROGRAM

To date, Pennsylvania has provided tax relief to low-income citizens exclusively through the special provision (SP) established by TRC § 304,[121] a provision that has no close counterpart in any other state.

CONSTITUTIONAL AUTHORIZATION

The Constitution of Pennsylvania states a general rule requiring uniformity of taxation: "All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws" (Art. VIII, § 1). If this provision stood alone, Pennsylvania and local income taxes within Pennsylvania could only have a flat rate. Indeed this provision has been held to forbid a graduated income tax or a tax based on the federal definition of taxable income,[122] although a graduated income tax is used by many other states as well as the federal government.

The mandate of the Uniformity Clause has been mitigated by exemptions and special provisions adopted at various times and, since 1968, set forth in Article VIII, § 2. The provision relevant to this study is subsection (b)(ii), which reads, in pertinent part, as follows:

> The General Assembly may, by law: (ii) Establish as a class or classes of subjects of taxation the property or privileges of persons who, because of age, disability, infirmity or poverty are determined to be in need of exemption or of special tax provisions, and for any such class or classes, uniform standards and qualifications. The Commonwealth, or any other taxing authority, may adopt or employ such class or classes and standards and qualifications, and except as herein provided may impose taxes, grant exemptions, or make special tax provisions in accordance therewith.

[121] Act of March 4, 1971 (P.L.6, No.2), § 304; 72 P.S. § 7304. SP is also commonly referred to as "tax forgiveness."

[122] *Amidon v. Kane*, 279 A.2d 53 (Pa. 1971).

BASIC PROVISIONS AND BENEFITS

A tax filer is eligible for an SP under § 304 if the sum of Pennsylvania taxable and certain nontaxable income falls below the eligibility threshold. The income threshold for unmarried, separated or deceased taxpayers is $6,500, increasing by $9,500 per dependent child. The income threshold for married claimants is $13,000, also increasing by $9,500 per dependent child. There is no cap on the number of dependent children who can be claimed. A tax credit of $6,500 translates to a tax reduction of $200, and a tax credit of $9,500 translates to a tax reduction of $292 at the current PIT rate of 3.07 percent. For incomes over the applicable threshold, the percentage of tax forgiveness decreases by 10 percentage points for each $250 increment, so that tax forgiveness ceases to apply if the filer has income of more than $2,250 over the threshold that applies to his or her filing status and number of dependents. SP tax reductions only offset PIT otherwise owed and are not refundable. However, filers may receive a refund of withheld or other prepaid taxes in excess of PIT liability after reduction by SP.

Income counted against the threshold (termed "poverty income" under TRC § 301(*o*.2)) comprises all income subject to the PIT.[123] Poverty income adds back to income nontaxable income "of whatever nature and from whatever source derived." The additional categories of income comprise investment income; alimony; insurance proceeds; inheritances; gifts, awards and prizes; nonresident income; nontaxable military income; nontaxable gains from the sale of a residence; nontaxable educational assistance; and cash received for personal use outside the home. Not included in poverty income are seven categories of income that are also not subject to PIT, including qualified retirement payments, Social Security benefits, unemployment compensation, child support, military combat pay, and public assistance.[124] The exclusion of retirement and Social Security benefits permits some older filers to qualify for SP even though they may have more resources than working families that fail to qualify.

Table 7 is the table used to determine the SP credit for unmarried, separated or deceased tax filers. For example, a single parent with one child who makes $8.00/hour and works full-time earns $16,640 per year.[125] Assuming no other taxable income is received that year, SP reduces the parent's PIT by 70 percent or $357.59 ($16,640 x 0.0307 x 0.7), effectively increasing this individual's wage by over $0.17/hour.

Table 8 is the table used to determine the SP credit for married tax filers. Consider a two-parent family with two children where one parent works full-time at $16 per hour, so that the family earns $33,280 annually. Again, assuming no other taxable income was received that year, the family would see a reduction in their PIT of 40 percent or $408.68 ($33,280 x 0.0307 x 0.4). This credit would effectively increase

[123] Tax Reform Code of 1971, § 301(*o*.2), read together with § 304.
[124] PDR, Instructions for Form PA-40 (2008), 37.
[125] It is assumed throughout this report that a full-time worker works 2,080 hours per year.

the family's wage income by over $0.20/hour. If both parents each work full-time making $8/hour, SP increases each of their hourly wages by over $0.10/hour, since they are splitting the credit between them.

Table 7

SP CREDIT FOR UNMARRIED,
SEPARATED OR DECEASED TAX FILERS (2008)

Number of dependents	**If eligibility income from PA Schedule SP, Line 11, does not exceed:**									
0	$6,500	$6,750	$7,000	$7,250	$7,500	$7,750	$8,000	$8,250	$8,500	$8,750
1	16,000	16,250	16,500	16,750	17,000	17,250	17,500	17,750	18,000	18,250
2	25,500	25,750	26,000	26,250	26,500	26,750	27,000	27,250	27,500	27,750
3	35,000	35,250	35,500	35,750	36,000	36,250	36,500	36,750	37,000	37,250
4	44,500	44,750	45,000	45,250	45,500	45,750	46,000	46,250	46,500	46,750
5	54,000	54,250	54,500	54,750	55,000	55,250	55,500	55,750	56,000	56,250
6	63,500	63,750	64,000	64,250	64,500	64,750	65,000	65,250	65,500	65,750
7	73,000	73,250	73,500	73,750	74,000	74,250	74,500	74,750	75,000	75,250
8	82,500	82,750	83,000	83,250	83,500	83,750	84,000	84,250	84,500	84,750
9	92,000	92,250	92,500	92,750	93,000	93,250	93,500	93,750	94,000	94,250
	Then the percentage of tax forgiveness and the decimal equivalent is:									
	100%	90%	80%	70%	60%	50%	40%	30%	20%	10%
	1.0	0.9	0.8	0.7	0.6	0.5	0.4	0.3	0.2	0.1

SOURCE: PDR, PA-40: Pennsylvania Personal Income Tax Return 2008 Instructions, 36 http://www.revenue.state.pa.us/revenue/lib/revenue/2008_pa-40_book.pdf (accessed June 5, 2009).

Table 8

SPECIAL PROVISION CREDIT FOR MARRIED TAX FILERS (2008)

Number of dependents	**If eligibility income from PA Schedule SP, Line 11, does not exceed:**									
0	$13,000	$13,250	$13,500	$13,750	$14,000	$14,250	$14,500	$14,750	$15,000	$15,250
1	22,500	22,750	23,000	23,250	23,500	23,750	24,000	24,250	24,500	24,750
2	32,000	32,250	32,500	32,750	33,000	33,250	33,500	33,750	34,000	34,250
3	41,500	41,750	42,000	42,250	42,500	42,750	43,000	43,250	43,500	43,750
4	51,000	51,250	51,500	51,750	52,000	52,250	52,500	52,750	53,000	53,250
5	60,500	60,750	61,000	61,250	61,500	61,750	62,000	62,250	62,500	62,750
6	70,000	70,250	70,500	70,750	71,000	71,250	71,500	71,750	72,000	72,250
7	79,500	79,750	80,000	80,250	80,500	80,750	81,000	81,250	81,500	81,750
8	89,000	89,250	89,500	89,750	90,000	90,250	90,500	90,750	91,000	91,250
9	98,500	98,750	99,000	99,250	99,500	99,750	100,000	100,250	100,500	100,750
	Then the percentage of tax forgiveness and the decimal equivalent is:									
	100%	90%	80%	70%	60%	50%	40%	30%	20%	10%
	1.0	0.9	0.8	0.7	0.6	0.5	0.4	0.3	0.2	0.1

SOURCE: PDR, PIT Return 2008 Instructions, 36.

LEGISLATIVE DEVELOPMENT

SP was introduced into the PIT by the act of March 13, 1974 (P.L.179, No.32) as TRC § 304,[126] entitled "Special tax provisions for poverty." (This legislation also featured a reduction of the PIT rate from 2.3 to 2.0 percent.) Originally, the income threshold for a single individual was set at $3,000, with an additional allowance of $1,200 for one dependent and $750 for each additional dependent. The tax reduction was phased out at a rate of 10 percent for each increment of $100 over the applicable threshold. Besides setting forth the provisions governing SP, definitions were added to TRC § 301 (the section setting forth the definitions of the terms applying to the PIT) of the terms *claimant*, *dependent*, *poverty*, *poverty income*, and *special tax provisions*, and modifications were made to the terms *person* and *taxable year*. Provisions were also added relating to the claim procedures and eligibility determinations, in both cases authorizing the Pennsylvania Department of Revenue (PDR) to establish appropriate rules and regulations (TRC §§ 336.1 and 336.2). The debate on the legislation as recorded in the Legislative Journals did not mention the SP provisions.

Section 304 has been amended twelve times since its initial adoption, in each case as part of omnibus amendments to the TRC.

The act of July 13, 1987 (P.L.317, No.58) adjusted the eligibility formula such that the income threshold for a single individual was raised to $4,000, with an additional allowance of $1,500 for the first dependent and $1,000 for each additional dependent.

The act of October 14, 1988 (P.L.737, No.106) raised the income threshold for a single individual to $6,300, while leaving the other parameters unaffected.

The act of August 4, 1991 (P.L.97, No.22) raised the income threshold for a single individual to $7,000, with an additional allowance of $2,000 for each dependent and household member. Read together with definitions adopted or modified in TRC § 301 this legislation adopted the federal definition of dependent and counted all poverty income earned by any member of a household toward the eligibility threshold.

The act of December 13, 1991 (P.L.373, No.40) reversed the August legislation, so that the income threshold for a single individual was again set at $6,300, with an additional allowance of $1,500 for the first dependent and $1,000 for each additional dependent. The definitions also reverted to the language as it stood under the 1988 amendments.

The act of June 16, 1994 (P.L.279, No.48) increased the allowance for all dependents to $3,000 each.

[126] Act of March 4, 1971 (P.L.6, No.2), § 304; 72 P.S. § 7304.

The act of May 7, 1994 (P.L.85, No.7) adopted a threshold for married claimants of $12,600 and raised the allowance for all dependents to $4,000 each. Claimants were deemed not married if the claimant and his spouse file separate returns and either lived apart during all of the last six months of the taxable year or were separated under a written separation agreement. PDR was authorized to annualize the poverty income of individuals whose taxable year was less than twelve months. The definition of *claimant* was changed to exclude dependents of another taxpayer and *dependent* was changed to refer to a child of a claimant as defined in IRC § 151.

The act of April 23, 1998 (P.L.239, No.45) increased the income threshold for a single individual to $6,500 and for married claimants to $13,000. The allowance for the first dependent was raised to $6,000 for married claimants and $6,500 for single claimants. For both single and married claimants, the allowance for each additional dependent was $6,000. The phaseout was changed to 10 percent for each increment of $250.

The act of May 12, 1999 (P.L.26, No.4) set the additional allowance for all dependents at $6,500 per dependent. The last four amendments have continued with a uniform dependent allowance, and each amendment has raised this allowance, while making no other changes: act of May 24, 2000 (P.L.106, No.23) ($7,500 allowance); act of June 22, 2001 (P.L.353, No.23) ($8,500 allowance); act of June 29, 2002 (P.L.559, No.89) ($9,000 allowance); and act of December 23, 2003 (P.L.250, No.46) ($9,500 allowance).

FISCAL COSTS AND TAXPAYER BENEFITS

PDR determined that in fiscal years 2005-06 and 2006-07, the SP program cost the state $320.3 and $312.1 million, respectively.[127] In estimating the future cost of the SP program for fiscal years 2007-08 through 2013-14, the department stated that "[a]bsent a change in the SP law, returns claiming SP have historically declined by about three percent a year. The effect of a recession on SP returns and amounts is difficult to forecast. For this reason, the future costs of the SP program will be measured using the historical growth rate of SP."[128] An increase in the PIT rate would also increase the cost of SP, because a larger amount of income tax would be forgiven.[129] Table 9 shows the actual SP costs for 2005-06 and 2006-07 and estimated cost from 2007-08 through 2013-2014.

[127] PDR, Bureau of Research, unpublished data provided to the Joint State Government Commission on May 20, 2009.

[128] Ibid.

[129] This report assumes the current PIT rate of 3.07 percent.

Table 9

SP COST TO PENNSYLVANIA
(FY 2005-06 – 2013-14)
(Dollars in millions)

Fiscal year	**SP cost**
2005-06	$320.3 (actual)
2006-07	312.1 (actual)
2007-08	302.7
2008-09	293.6
2009-10	284.8
2010-11	276.3
2011-12	268.0
2012-13	260.0
2013-14	252.2

NOTE: Assumptions used for this table: number of SP claimants declines by 3 percent per year.

SOURCE: PDR, Bureau of Research, unpublished data provided to the Commission on May 20, 2009.

Table 10 shows the number of filers and average SP credit received by income level in 2006. In that year, the average SP credit was $243, but ranged considerably depending on income and family size. Since the credit is capped at the amount of PIT otherwise owed the average amount of tax credit received by higher income filers is usually greater than the amount received by lower income filers. For example, tax filers in the $7,000—$8,999 income range received an average SP credit of $167, while filers in the $35,000—$39,999 income range received an average SP credit of $1,079.

Based on 2005 data, the Pennsylvania Budget and Policy Center noted that SP reduced or eliminated state personal income tax for 1.3 million Pennsylvanians.

> The average amount of tax forgiven was $240, but ranged significantly based on income and family size. The credit is limited to the amount of personal income tax paid by a taxpayer. . . . [F]or taxpayers earning between $5,000 and $6,999 the average amount of tax forgiveness is $177. For eligible taxpayers, (families with a number of children) earning between $50,000 and $74,500, the average benefit from the program is $1,497.[130]

[130] Pennsylvania Budget and Policy Center, "Comparing the Federal Earned Income Credit and the Pennsylvania Tax Forgiveness Program," prepared for the Joint State Government Commission.

Table 10

AVERAGE TAXABLE INCOME, NUMBER OF FILERS AND AVERAGE TAX CREDIT RECEIVED BY TAXABLE INCOME BRACKET (2006)

Taxable income bracket	**Average taxable income**	**Number of filers receiving tax forgiveness**	**Average tax credit received**
$1 – $999	$394	205,478	$12
1,000 – 2,999	1,942	210,741	59
3,000 – 4,999	3,976	169,390	121
5,000 – 6,999	5,980	152,571	177
7,000 – 8,999	7,923	128,137	167
9,000 – 10,999	9,994	60,146	305
11,000 – 12,999	12,007	60,610	365
13,000 – 14,999	13,985	56,545	367
15,000 – 16,999	15,955	41,349	446
17,000 – 18,999	17,897	33,097	441
19,000 – 21,999	20,512	37,162	628
22,000 – 24,999	23,471	37,074	670
25,000 – 29,999	27,150	39,612	733
30,000 – 34,999	32,290	26,389	866
35,000 – 39,999	37,339	11,825	1,079
40,000 – 49,999	43,556	12,038	1,164
50,000 – 74,999	56,069	4,279	1,493
75,000 – 99,999	82,581	248	2,391
100,000+	110,600	5	3,400
All filers	8,743	1,286,696	243

SOURCE: PDR, Personal Income Tax Statistics: Tax Year 2006 http://www.revenue.state.pa.us/ revenue/cwp/view.asp?A=246&Q=286702 (accessed August 18, 2009).

In 2006, SP credited $312.1 million, or 3.81 percent of potential tax revenue. (Pennsylvania income taxable under the PIT in that year was $288.0 billion, and the total potential tax revenue was $8.8 billion.) The average yearly income of filers who benefitted from SP was $8,743, with an average tax forgiveness of $243 per filer. Of the slightly more than 5.8 million Pennsylvania tax filers, almost 1.3 million (22.0 percent) received tax reductions under SP, making it one of the broadest low income tax reduction programs in the nation.[131] Pennsylvania had one of the highest income tax thresholds (the lowest income upon which income taxes are owed) among the 42 states that use a state income tax.[132]

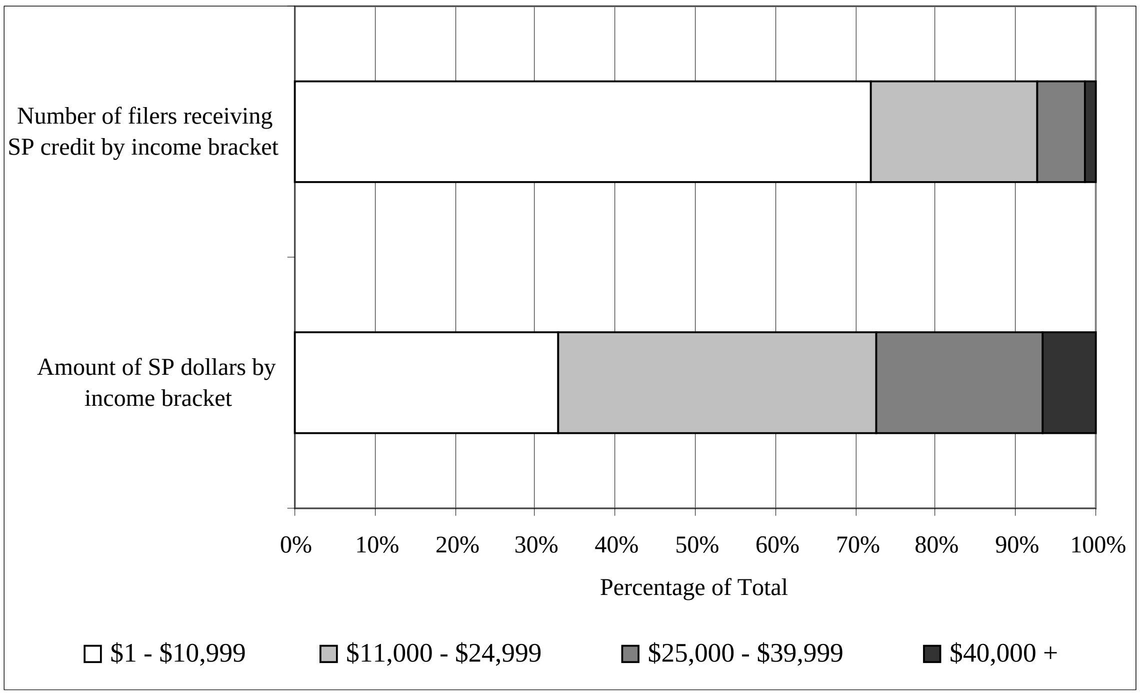
[131] PDR, Personal Income Tax Statistics: Tax Year 2006 http://www.revenue.state.pa.us/ revenue/cwp/view.asp?A=246&Q=286702 (accessed August 18, 2009).

[132] Pennsylvania Budget and Policy Center (Michael Wood and Sharon Ward), "A Hand Up: An Earned Income Credit Will Help Working Families" (Harrisburg: PBPC, January 2008), 3 http://www.pennbpc.org/sites/pennbpc.org/files/eic0108rev.pdf. Pennsylvania's ranking is seventh highest for single parent families and fifth highest for two parent families.

Figure 3 shows the percentage of filers and percentage of tax forgiveness amounts received by various income brackets as of 2006. Roughly 72 percent of filers who received some SP credit earned less than $11,000 in Pennsylvania taxable income, and only 1.3 percent made more than $40,000. But filers earning less than $11,000 only received 32.8 percent and filers making $40,000 or more received 6.7 percent of all tax forgiveness credits. One way to target SP more precisely to low-income filers would be to add back for SP purposes classes of income currently excluded from both the PIT and "poverty income," particularly "old age or retirement benefits."[133] This change would render some elderly filers ineligible for SP, but it could be argued that their interests are adequately recognized by the exclusion of this income from the PIT.[134]

Figure 3

PORTION OF TAX FILERS RECEIVING TAX FORGIVENESS AND TOTAL AMOUNT RECEIVED BY INCOME BRACKETS (2006)



SOURCE: PDR, PIT Statistics (2006).

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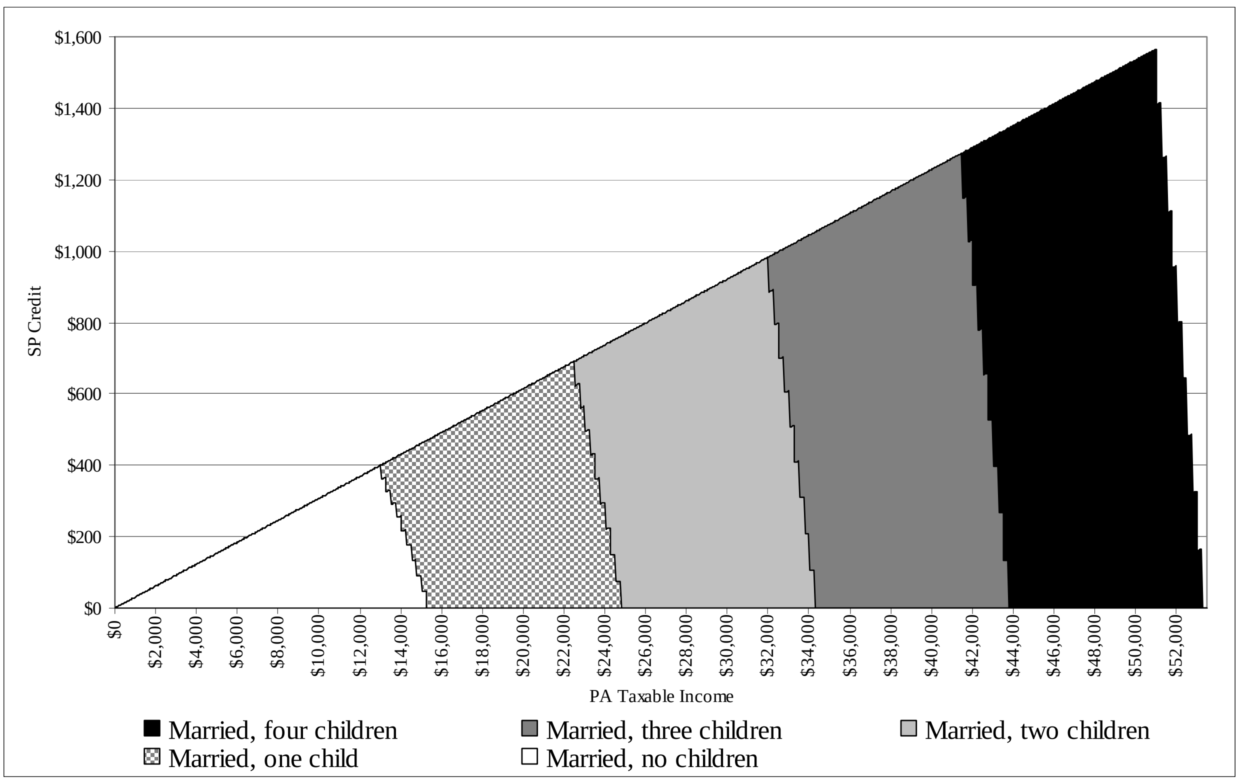
[133] This exclusion from "poverty income" is provided by TRC § 301(*o*.1)(iii); 72 P.S. § 7301(*o*.1)(iii).

[134] The exclusion from the PIT is provided by TRC § 301(d)(iii); 72 P.S. § 7301(d)(iii), read together with TRC § 303(a)(1); 72 P.S. § 7303(a)(1).

A conspicuous feature of SP is its drastic phaseout rate. The steeper the phaseout rate, the higher the effective marginal tax rate in the phaseout range. A high marginal tax rate can discourage workers from putting in more hours or taking a more challenging position with a higher pay rate. As Figure 4 shows, the SP phaseout rate is very steep and, unlike the federal EITC, there is no plateau before benefits phase out. In some cases the SP phaseout creates a marginal tax rate greater than 100 percent. For example, a married couple with two children that earns $32,000 may receive an SP credit offsetting state tax liability of $982. But if they earn $32,001, the couple loses $98 of the credit, and therefore suffers a marginal tax rate of 980 percent. The couple does not begin to benefit from additional income until their income exceeds $32,098. If the family earns $32,200, they would lose $99 in SP credit compared to earnings of $32,000, for a state marginal tax rate of 49.5 percent on the last $200.

Figure 4

SP CREDIT FOR MARRIED FAMILIES WITH FOUR OR FEWER CHILDREN



SOURCE: Data from PDR, PIT Return 2008 Instructions.

The Pennsylvania Budget and Policy Center observes that "since the benefits of SP are limited to the amount of tax owed, it is not very helpful to those who pay little tax, including the lowest income working families and many of those just entering the workplace from welfare."[135] Citing a study by the Institute on Taxation and Economic Policy, the Center notes that Pennsylvania has been ranked as having the eighth most regressive state and local tax system in the nation, despite SP. In 2002 the poorest fifth of taxpayers paid 11.4 percent of their income in taxes, which is over twice the 4.8 percent share paid by the top one percent of taxpayers. Sales and excise taxes took six percent of the income of the poorest fifth of Pennsylvania taxpayers, while the top one percent of earners paid 0.7 percent of income in those taxes.[136]

While SP benefits 1.3 million Pennsylvania citizens each year, it has been criticized for not going far enough to offset the tax liability of its beneficiaries. Because the credit is determined by the PIT tax rate, it does not offset Social Security and Medicare taxes of 7.65 percent. Many senior citizens would be excluded from the benefit of a state EITC that follows the federal EITC requirements. The Center therefore recommends that both the SP and EITC programs be run concurrently, thereby allowing current beneficiaries of the SP program to choose the tax forgiveness benefit most advantageous to them. The comparative costs of such an elective provision will be further analyzed in Chapter 4.

SIMILAR MEASURES IN OTHER STATES

The EITC is one of a variety of measures states have enacted to provide relief to the poor from the income tax.[137] Of the 41 jurisdictions that levy a state income tax, 35 use a progressive graduated rate (i.e., the rate for lower income taxpayers is lower than the rate for higher income taxpayers) and all but one of the 35 provide for personal exemptions. The exception, Rhode Island, levies a tax of 25 percent of the federal tax liability (based on the federal income tax prior to enactment of the Economic Growth and Tax Relief Act of 2001), so that progressivity is automatically built in through the federal rates. Six states permit the federal deductions to apply to the state income tax, although three of those states impose caps on the amount deductible. South Carolina does not levy income tax on the first $2,220 of income. Of the seven states that use a flat rate, all but Colorado and Pennsylvania provide for personal exemptions.[138]

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[135] Pennsylvania Budget and Policy Center, "A Hand Up," 3.

[136] Ibid., 1, citing ITEP, "State & Local Income Taxes."

[137] Seven states do not currently levy an income tax: Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming. Two others, New Hampshire and Tennessee, levy an income tax only on dividend and interest income.

[138] Federation of Tax Administrators, State Individual Income Taxes (for TY 2008 as of January 1, 2008) http://www.taxadmin.org/fta/rate/ind_inc.html .

The following states provide income tax relief through more elaborate measures. These are summarized here, and the texts of the provisions are set forth in Appendix C:

Arizona (Ariz. Rev. Stat. § 43-1073). This section provides a "family income tax credit" of $40 per personal or dependent exemption. The credit is available to filers whose Arizona adjusted gross income after state exemptions falls below a threshold, the amount of which is based on marital status, tax filing status, and number of dependents. These thresholds range from $10,000 for a single person or married person filing separately up to $31,000 for a married couple filing a joint return with four or more dependents. The credit is capped at $240 for married filing a joint return or single head of household, or $120 for single or married filing separately, and is nonrefundable.

Arkansas (Ark. Code § 26-51-301). This section provides for a state exemption based on marital and filing status and number of federal exemptions. Filers with income from all sources (including income not subject to the Arkansas income tax) below $10,506 (single); $17,716 (married filing jointly with one dependent or fewer); or $21,321 (married filing jointly with two or more dependents) are not subject to income tax. For incomes above the exemption limits, a "low income tax credit" of 80 percent of the tax otherwise due on the income applies, which is phased out at rates of 4-7 percent, depending on filing status and number of dependents. The income levels are adjusted for inflation up to 3 percent.

Delaware (Del. Code tit. 30, § 1106(b)(2)). A tax filer may subtract $2,000 from taxable income ($4,000 if married filing jointly), but only if the filer is totally and permanently disabled or over 60 years and earns less than $2,500 ($5,000 if MFJ) and has an adjusted gross income less than $10,000 ($20,000 if MFJ). Note that this deduction depends on disability or age as well as low income.

Hawaii (Haw. Rev. Stat. § 235-55.85). This section provides for a refundable "food/excise credit" of up to $85 per exemption. The eligibility for the exemption phases out completely at income of $50,000. The eligible exemptions are the federal personal exemptions, except for the exemption for exceeding age 65.

Idaho (Idaho Code § 63-3086). Under this section, citizens "lawfully receiving public assistance" are exempt from the state income tax.

New Mexico (N.M. Stat. § 7-2-5.8). This section provides for a state exemption of up to $2,500 for each federal income tax exemption. The exemption phases out ratably between the eligibility threshold and the complete phaseout income as follows:

Married filing separately: Exemption of $2,500 per federal exemption for gross income up to 15,000; amount of each exemption reduced by 20 percent of income over $15,000. Exemption phases out completely at $27,500.

Single: Exemption of $2,500 per federal exemption for gross income up to $20,000; amount of each exemption reduced by 15 percent of income over $20,000. Exemption phases out completely at $36,667.

Married filing jointly: Exemption of $2,500 per federal exemption for gross income up to $30,000; amount of each exemption reduced by 10 percent of income over $30,000. Exemption phases out completely at $55,000.

Virginia (Va. Code § 58.1-321). Tax filers whose adjusted taxable income falls below a statutory threshold need not pay income tax. Currently, the tax liability threshold for single individuals or married filing separately is $11,250, scheduled to rise to $11,650 for TY 2010, and to $11,950 for TY 2012. The corresponding amount for married couples is $22,500 (currently); $23,300 (TY 2010); and $23,900 (TY 2012). Note that Virginia law also provides for a nonrefundable 20 percent EITC.

None of the other states has a relief formula that closely resembles Pennsylvania's SP. The provisions enacted by Arizona and Hawaii differ greatly from SP in that the relief they grant is small in comparison to SP. The New Mexico statute is similar to Pennsylvania's in that the amount of relief is increased by the number of the tax filer's dependents. The New Mexico exemptions are subtracted from taxable income, while SP reductions are credited from tax otherwise owed.

CHAPTER 4
COMPARISON OF SP TO EITC

SP awards less money but benefits many more citizens than does the EITC. In 2005, 779,963 Pennsylvanians received federal tax reductions under EITC, totaling $1.3 billion, with an average credit of $1,722.[139] In that year, the SP forgiveness was claimed by 1.33 million Pennsylvania filers. However, SP forgave $320.3 million, less than one-fourth the total tax relief afforded by EITC in that year and the SP credit per recipient came to $240.[140] Nearly 25 percent of Pennsylvania tax filers were eligible for SP, making it one of the broadest low income tax reduction programs in the nation. In 2005 Pennsylvania had the third highest income tax threshold (i.e., the lowest income upon which income taxes are owed) of any state.[141]

Table 11 shows the 2009 Federal Poverty Level (FPL), the 2009 income limits for SP and EITC, and the percentage of SP and EITC income limits compared to FPL. SP benefits large families more than it helps smaller families. Since the 2009 FPL adds an additional $3,740 for each additional dependent compared to SP's income limit increases of $9,500 for each additional dependent, the more children a family has, the higher income they can have compared to the FPL and still qualify for SP. Conversely, EITC seems to benefit one-child families more than SP, because the EITC amount does not change for families with three or more children.

[139] Center for Rural Pennsylvania, Newsletter - March/April 2008. "EITC Helps Low- to Moderate-Income Individuals, Families Keep More of What They Earn" http://www.ruralpa.org/news0308.html#3 (accessed: June 19, 2009).

[140] PDR, Personal Income Tax Statistics: Tax Year 2005 http://www.revenue.state.pa.us/revenue/lib/revenue/2005_PIT_Booklet_-_Tables_1_through_6.xls (accessed June 10, 2009).

[141] PDR Executive Deputy Secretary Eileen McNulty, testimony to the House Finance Committee, March 22, 2006.

Table 11

COMPARISON OF THE FEDERAL POVERTY LEVEL (FPL) WITH THE SP AND EITC INCOME LIMITS FOR MARRIED AND UNMARRIED FILERS BY THE NUMBER OF DEPENDENTS FOR 2009

Number of dependents	**2009 FPL**	**2009 SP income limit**	**Percentage of the 2009 FPL**	**2009 EITC income limit**	**Percentage of the 2009 FPL**
Married tax filers					
0	$14,570	$15,250	104.7%	$18,440	126.6%
1	18,310	24,750	135.2	40,463	221.0
2	22,050	34,250	155.3	45,295	205.4
3	25,790	43,750	169.6	48,279	187.2
4	29,530	53,250	180.3	48,279	163.5
5	33,270	62,750	188.6	48,279	145.1
6	37,010	72,250	195.2	48,279	130.4
7	40,750	81,750	200.6	48,279	118.5
8	44,490	91,250	205.1	48,279	108.5
9	48,230	100,750	208.9	48,279	100.1
10	51,970	110,250	212.1	48,279	92.9
Single tax filers					
0	10,830	8,750	80.8	13,440	124.1
1	14,570	18,250	125.3	35,463	243.4
2	18,310	27,750	151.6	40,295	220.1
3	22,050	37,250	168.9	43,279	196.3
4	25,790	46,750	181.3	43,279	167.8
5	29,530	56,250	190.5	43,279	146.6
6	33,270	65,750	197.6	43,279	130.1
7	37,010	75,250	203.3	43,279	116.9
8	40,750	84,750	208.0	43,279	106.2
9	44,490	94,250	211.8	43,279	97.3
10	48,230	103,750	215.1	43,279	89.7

SOURCE: U.S. Department of Health and Human Services. The 2009 HHS Poverty Guidelines. http://aspe.hhs.gov/poverty/09poverty.shtml (accessed June 8, 2009); PDR, PIT Return 2008 Instructions, 36; Tax Policy Center, The Tax Policy Briefing Book.

Table 12 and Table 13 compare the expected benefit of SP and EITC in 2009 for families who qualify for both credits based on number of dependents, and qualifying income, for single and married filers, respectively. For example, a single parent with two children making $20,000 in 2009 would receive a SP credit of $614 and an EITC of $4,274.

Table 12

SP CREDIT AND EITC FOR SINGLE FILERS WITH
QUALIFYING INCOME BY NUMBER OF DEPENDENTS

Qualifying income	**No children**		**1 child**		**2 children**		**3 children**		**4 children**	
	SP	**EITC**	**SP**	**EITC**	**SP**	**EITC**	**SP**	**EITC**	**SP**	**EITC**
$2,000	$61	$153	$61	$680	$61	$800	$61	$900	$61	$900
4,000	123	306	123	1,360	123	1,600	123	1,800	123	1,800
6,000	184	457	184	2,040	184	2,400	184	2,700	184	2,700
8,000	98	416	246	2,720	246	3,200	246	3,600	246	3,600
10,000	0	263	307	3,043	307	4,000	307	4,500	307	4,500
12,000	0	110	368	3,043	368	4,800	368	5,400	368	5,400
14,000	0	0	430	3,043	430	5,028	430	5,657	430	5,657
16,000	0	0	491	3,043	491	5,028	491	5,657	491	5,657
18,000	0	0	111	2,791	553	4,695	553	5,324	553	5,324
20,000	0	0	0	2,471	614	4,274	614	4,903	614	4,903
22,000	0	0	0	2,151	675	3,853	675	4,482	675	4,482
24,000	0	0	0	1,832	737	3,432	737	4,061	737	4,061
26,000	0	0	0	1,512	639	3,010	798	3,639	798	3,639
28,000	0	0	0	1,193	0	2,589	860	3,218	860	3,218
30,000	0	0	0	873	0	2,168	921	2,797	921	2,797
32,000	0	0	0	553	0	1,747	982	2,376	982	2,376
34,000	0	0	0	234	0	1,326	1,044	1,955	1,044	1,955
36,000	0	0	0	0	0	904	663	1,533	1,105	1,533
38,000	0	0	0	0	0	483	0	1,112	1,167	1,112
40,000	0	0	0	0	0	62	0	691	1,228	691
42,000	0	0	0	0	0	0	0	270	1,289	270
44,000	0	0	0	0	0	0	0	0	1,351	0
46,000	0	0	0	0	0	0	0	0	565	0
48,000+	0	0	0	0	0	0	0	0	0	0

NOTE: Assumptions for this table: family investment income is $2,950 or less; each family has wage income; at least one parent is between the ages of 25 and 65; and children are under age 19, in school under the age of 24, or permanently disabled.

SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book; PDR, PIT Return 2008 Instructions, 36.

Table 13

SP CREDIT AND EITC FOR MARRIED FILERS WITH QUALIFYING INCOME BY NUMBER OF DEPENDENTS

Qualifying income	**No children**		**1 child**		**2 children**		**3 children**		**4 children**	
	SP	**EITC**	**SP**	**EITC**	**SP**	**EITC**	**SP**	**EITC**	**SP**	**EITC**
$2,000	$61	$153	$61	$680	$61	$800	$61	$900	$61	$900
4,000	123	306	123	1,360	123	1,600	123	1,800	123	1,800
6,000	184	457	184	2,040	184	2,400	184	2,700	184	2,700
8,000	246	457	246	2,720	246	3,200	246	3,600	246	3,600
10,000	307	457	307	3,043	307	4,000	307	4,500	307	4,500
12,000	368	457	368	3,043	368	4,800	368	5,400	368	5,400
14,000	258	340	430	3,043	430	5,028	430	5,657	430	5,657
16,000	0	187	491	3,043	491	5,028	491	5,657	491	5,657
18,000	0	34	553	3,043	553	5,028	553	5,657	553	5,657
20,000	0	0	614	3,043	614	5,028	614	5,657	614	5,657
22,000	0	0	675	2,950	675	4,906	675	5,535	675	5,535
24,000	0	0	295	2,631	737	4,485	737	5,114	737	5,114
26,000	0	0	0	2,311	798	4,063	798	4,692	798	4,692
28,000	0	0	0	1,992	860	3,642	860	4,271	860	4,271
30,000	0	0	0	1,672	921	3,221	921	3,850	921	3,850
32,000	0	0	0	1,352	982	2,800	982	3,429	982	3,429
34,000	0	0	0	1,033	209	2,379	1,044	3,008	1,044	3,008
36,000	0	0	0	713	0	1,957	1,105	2,586	1,105	2,586
38,000	0	0	0	394	0	1,536	1,167	2,165	1,167	2,165
40,000	0	0	0	74	0	1,115	1,228	1,744	1,228	1,744
42,000	0	0	0	0	0	694	1,032	1,323	1,289	1,323
44,000	0	0	0	0	0	273	0	902	1,351	902
46,000	0	0	0	0	0	0	0	480	1,412	480
48,000	0	0	0	0	0	0	0	59	1,474	59
50,000	0	0	0	0	0	0	0	0	1,535	0
52,000	0	0	0	0	0	0	0	0	958	0
54,000	0	0	0	0	0	0	0	0	0	0

NOTE: Assumptions for this table: family investment income is $2,950 or less; each family has wage income; all married filers file jointly; at least one parent is between the ages of 25 and 65; and children are under age 19, in school under the age of 24, or permanently disabled.

SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book; PDR, PIT Return 2008 Instructions, 36.

ELECTION BETWEEN EITC AND SP

Given the current SP, an attractive alternative for implementing EITC is to provide for an election between SP and the new EITC. This strategy is recommended by the Pennsylvania Budget and Policy Center.[142] For a family of two parents and two children in 2009, a 20% state EITC provides a greater benefit than SP for an income level up to $26,180. From $26,195 to $33,000, SP provides a greater benefit. Between $33,001 and $32,250 the two programs are roughly equivalent. The advantage reverts to EITC for income levels from $32,251 to $45,262.

Table 14 shows average benefits to tax filers of adding an elective state EITC at credit percentages of 10, 20, and 30 percent. For example, if the state adopted a 30 percent EITC, 848,000 Pennsylvania tax filers would benefit an average of $457 more from the state EITC than the current SP and would therefore elect the state EITC.[143]

Table 14

NUMBER AND AVERAGE AMOUNT TAX FILERS WHO WOULD BENEFIT BY AN ELECTIVE STATE EITC BY CREDIT PERCENTAGE

Pennsylvania EITC credit percentage	**Filers qualifying for both SP and EITC who would benefit more under EITC (in thousands)**	**Filers who would qualify for EITC but not SP (in thousands)**	**Filers who would benefit from adding a state EITC (in thousands)**	**Average increase in benefit per tax filer (in dollars)**
10%	165	486	651	$106
20	308	486	794	275
30	363	486	848	457

SOURCE: PDR, Bureau of Research, unpublished data supplied to the Commission, May 20, 2009.

Table 15, Table 16, and Table 17 supply further detail for an elective state EITC at credit percentages of 10, 20, and 30 percent, respectively. For example, a married family with two children earning $20,000 in 2009 would be eligible for an EITC of $1,006 (or $392 more than their current SP tax reduction of $614) if they were allowed to elect between SP and a 20 percent state EITC. For a full-time employee, this additional increase amounts to almost $0.48/hour, about $0.19/hour more than SP provides.

[142] Pennsylvania Budget and Policy Center, "A Hand Up," 2, 3.

[143] The PDR estimates did not account for the changes made to EITC by the American Recovery and Reinvestment Act of 2009 including increasing married filers income limits on EITC and additional benefits for families with three or more children. This would most likely increase the number of state filers that benefit from the state EITC and would increase their average benefit.

Table 15

BENEFIT TO FAMILIES OF AN ELECTION BETWEEN
SP AND STATE EITC AT 10 PERCENT CREDIT PERCENTAGE,
BY FILING STATUS, INCOME,
AND NUMBER OF DEPENDENTS (2009)

Filing status and income	No children	1 child	2 children	3 children	4 children
Single filers					
$4,000	SP	$13	$37	$57	$57
8,000	SP	26	74	114	114
12,000	$11	SP	112	172	172
16,000	DNQ	SP	12	75	75
20,000	DNQ	247	SP	SP	SP
24,000	DNQ	183	SP	SP	SP
28,000	DNQ	119	259	SP	SP
32,000	DNQ	55	175	SP	SP
36,000	DNQ	DNQ	90	SP	SP
40,000	DNQ	DNQ	6	69	SP
44,000	DNQ	DNQ	DNQ	DNQ	SP
48,000+	DNQ	DNQ	DNQ	DNQ	DNQ
Married filers					
$4,000	SP	13	37	57	57
8,000	SP	26	74	114	114
12,000	SP	SP	112	172	172
16,000	19	SP	12	75	75
20,000	DNQ	SP	SP	SP	SP
24,000	DNQ	SP	SP	SP	SP
28,000	DNQ	199	SP	SP	SP
32,000	DNQ	135	SP	SP	SP
36,000	DNQ	71	196	SP	SP
40,000	DNQ	7	112	SP	SP
44,000	DNQ	DNQ	27	90	SP
48,000	DNQ	DNQ	DNQ	6	SP
52,000	DNQ	DNQ	DNQ	DNQ	SP
56,000+	DNQ	DNQ	DNQ	DNQ	DNQ

NOTE: SP: Would not benefit more from a 10 percent state EITC than from SP. DNQ: Does not qualify for either SP or EITC. Dollar amounts show additional credit from state EITC over current law. Assumptions for this table: family investment income is $2,950 or less; each family has wage income; all married filers file jointly; at least one parent is between the ages of 25 and 65; and children are under age 19, in school under the age of 24, or permanently disabled.

SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book; PDR, PIT Return 2008 Instructions, 36.

Table 16

BENEFIT TO FAMILIES OF AN ELECTION BETWEEN
SP AND STATE EITC AT 20 PERCENT CREDIT PERCENTAGE,
BY FILING STATUS, INCOME,
AND NUMBER OF DEPENDENTS (2009)

Filing status and income	No children	1 child	2 children	3 children	4 children
Single filers					
$4,000	SP	$149	$197	$237	$237
8,000	SP	298	394	474	474
12,000	$22	240	592	712	712
16,000	DNQ	117	514	640	640
20,000	DNQ	494	241	367	367
24,000	DNQ	366	SP	75	75
28,000	DNQ	239	518	SP	SP
32,000	DNQ	111	349	SP	SP
36,000	DNQ	DNQ	181	SP	SP
40,000	DNQ	DNQ	12	138	SP
44,000	DNQ	DNQ	DNQ	DNQ	SP
48,000+	DNQ	DNQ	DNQ	DNQ	DNQ
Married filers					
$4,000	SP	149	197	237	237
8,000	SP	298	394	474	474
12,000	SP	240	592	712	712
16,000	37	117	514	640	640
20,000	DNQ	SP	392	517	517
24,000	DNQ	231	160	286	286
28,000	DNQ	398	SP	SP	SP
32,000	DNQ	270	SP	SP	SP
36,000	DNQ	143	391	SP	SP
40,000	DNQ	15	223	SP	SP
44,000	DNQ	DNQ	55	180	SP
48,000	DNQ	DNQ	DNQ	12	SP
52,000	DNQ	DNQ	DNQ	DNQ	SP
56,000+	DNQ	DNQ	DNQ	DNQ	DNQ

NOTE: SP: Would not benefit more from a 20 percent state EITC than from SP. DNQ: Does not qualify for either SP or EITC. Dollar amounts show additional credit from state EITC over current law. Assumptions for this chart: Family investment income is $2,950 or less; each family has wage income; all married filers file jointly; at least one parent is between the ages of 25 and 65; and children are under age 19, in school under the age of 24, or permanently disabled.

SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book; PDR, PIT Return 2008 Instructions, 36.

Table 17

BENEFIT TO FAMILIES OF AN ELECTION BETWEEN
SP AND STATE EITC AT 30 PERCENT CREDIT PERCENTAGE,
BY FILING STATUS, INCOME,
AND NUMBER OF DEPENDENTS (2009)

Filing status and income	**No children**	**1 child**	**2 children**	**3 children**	**4 children**
Single filers					
$4,000	SP	$285	$357	$417	$417
8,000	$27	570	714	834	834
12,000	33	545	1,072	1,252	1,252
16,000	DNQ	422	1,017	1,206	1,206
20,000	DNQ	741	668	857	857
24,000	DNQ	550	293	481	481
28,000	DNQ	358	777	106	106
32,000	DNQ	166	524	SP	SP
36,000	DNQ	DNQ	271	SP	SP
40,000	DNQ	DNQ	19	207	SP
44,000	DNQ	DNQ	DNQ	DNQ	SP
48,000+	DNQ	DNQ	DNQ	DNQ	DNQ
Married filers					
$4,000	SP	285	357	417	417
8,000	SP	570	714	834	834
12,000	SP	545	1,072	1,252	1,252
16,000	56	422	1,017	1,206	1,206
20,000	DNQ	299	894	1,083	1,083
24,000	DNQ	494	609	797	797
28,000	DNQ	597	233	422	422
32,000	DNQ	406	SP	46	46
36,000	DNQ	214	587	SP	SP
40,000	DNQ	22	335	SP	SP
44,000	DNQ	DNQ	82	270	SP
48,000	DNQ	DNQ	DNQ	18	SP
52,000	DNQ	DNQ	DNQ	DNQ	SP
56,000+	DNQ	DNQ	DNQ	DNQ	DNQ

NOTE: SP: Would not benefit more from a 30 state EITC than from SP. DNQ: Does not qualify for either the SP or EITC. Dollar amounts show additional credit from state EITC over current law. Assumptions for this table: family investment income is $2,950 or less; each family has wage income; all married filers file jointly; at least one parent is between the ages of 25 and 65; and children are under age 19, in school under the age of 24, or permanently disabled.

SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book; PDR, PIT Return 2008 Instructions, 36.

Table 18 shows the cost to the Commonwealth of adding an elective piggyback EITC at credit percentages of 10, 20, and 30 percent over the next five fiscal years. The cost to add a 20 percent elective EITC in 2009-10 represents 2.03 percent of the Commonwealth's anticipated receipts from the PIT for FY 2009-10 and, if funded exclusively from the PIT, would increase the rate to 3.13 percent.[144] The cost of this EITC represents 2.61 percent of the receipts from the sales tax, and would raise the statewide rate to 6.16 percent if funded exclusively from that source. The cost of this EITC represents 0.86 percent of all revenues allocated to the General Fund.

Table 18

FISCAL COST OF ADOPTING AN ELECTIVE EITC
(Dollars in millions)

Fiscal year	**10% credit percentage**	**20% credit percentage**	**30% credit percentage**
2009-10	$69.1	$218.6	$387.7
2010-11	76.9	241.9	425.2
2011-12	85.4	267.1	465.9
2012-13	94.9	295.4	511.8
2013-14	104.0	322.4	555.5

NOTE: This table assumes that the tax filer elects the larger of the SP or EITC credits.

SOURCE: PDR, Bureau of Research, unpublished data supplied to the Commission, May 20, 2009.

REPLACEMENT OF SP WITH STATE EITC

The final option analyzed in this report is the elimination of SP coupled with its replacement by a piggyback EITC. This policy would benefit some lower-income tax filers. For example, a married couple with one income earner working full-time and two children at the current minimum wage of $7.25/hour earns an annual income of $15,080 and would receive $463 in SP credit. If SP was replaced by a 20 percent state EITC, that

[144] Pennsylvania, *Executive Budget (2009-10)*, A2.17. The 2009-10 estimate of PIT receipts is $10,754.7 million; of sales tax receipts, $8,389 million; and of all receipts allocated to the General Fund, $25,567 million.

family would see an EITC of $1,006, an increase of $543 over their current benefit. For those who benefit by the replacement, the amount of the increased benefit ranges from a few dollars up to $1,311, if SP were replaced by a 30 percent EITC.

It will be recalled that tax filers are not eligible for the EITC if over the age of 65 unless they have a qualifying dependent. Many senior citizens who currently qualify for SP would not qualify for the EITC and therefore would lose this credit if SP was replaced by EITC. And taxpayers of all ages may have different state taxable income versus federal taxable income. Income included for purposes of SP may or may not be the same as the income included for purposes of EITC. Pennsylvanians with higher federal EITC income than state SP income may be made worse off by replacing the SP with an EITC.

Table 19, Table 20, and Table 21 show the amount gained or lost by families based on filing status, income and number of dependents as a result of a switch from SP to an EITC pegged at credit percentages of 10, 20, and 30 percent, respectively. For example, a married couple with two children making $32,000 in 2009 would receive $982 in SP credit. If a 20 percent state EITC replaced SP, that family would receive only $560 in EITC, a decrease of $422.

Table 19

EFFECT ON FAMILIES OF REPLACING SP
WITH 10 PERCENT STATE EITC, BY FILING STATUS, INCOME,
AND NUMBER OF DEPENDENTS (2009)

Filing status and income	**Amount gained (lost) by replacing SP with a 10% EITC**				
	No children	**1 child**	**2 children**	**3 children**	**4 children**
Single filers					
$4,000	($92)	$13	$37	$57	$57
8,000	(57)	26	74	114	114
12,000	11	(64)	112	172	172
16,000	DNQ	(187)	12	75	75
20,000	DNQ	247	(187)	(124)	(124)
24,000	DNQ	183	(394)	(331)	(331)
28,000	DNQ	119	259	(538)	(538)
32,000	DNQ	55	175	(745)	(745)
36,000	DNQ	DNQ	90	(510)	(952)
40,000	DNQ	DNQ	6	69	(1,159)
44,000	DNQ	DNQ	DNQ	DNQ	(1,351)
48,000+	DNQ	DNQ	DNQ	DNQ	DNQ
Married filers					
$4,000	(92)	13	37	57	57
8,000	(200)	26	74	114	114
12,000	(323)	(64)	112	172	172
16,000	19	(187)	12	75	75
20,000	DNQ	(310)	(111)	(48)	(48)
24,000	DNQ	(32)	(288)	(225)	(225)
28,000	DNQ	199	(495)	(432)	(432)
32,000	DNQ	135	(702)	(640)	(640)
36,000	DNQ	71	196	(847)	(847)
40,000	DNQ		112	(1,054)	(1,054)
44,000	DNQ	DNQ	27	90	(1,261)
48,000	DNQ	DNQ	DNQ	6	(1,468)
52,000	DNQ	DNQ	DNQ	DNQ	(958)
56,000+	DNQ	DNQ	DNQ	DNQ	DNQ

NOTE: DNQ: Does not qualify for either the SP or federal EITC and would not be affected. Assumptions for this table: family investment income is $2,950 or less; family has wage income; all married filers are file jointly; at least one parent is between the ages of 25 and 65; and children are under age 19, in school under the age of 24, or permanently disabled.

SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book; PDR, PIT Return 2008 Instructions, 36.

Table 20

EFFECT ON FAMILIES OF REPLACING SP
WITH 20 PERCENT STATE EITC, BY FILING STATUS, INCOME,
AND NUMBER OF DEPENDENTS (2009)

Filing status and income	Amount gained (lost) by replacing SP with a 20% EITC				
	No children	1 child	2 children	3 children	4 children
Single filers					
$4,000	($62)	$149	$197	$237	$237
8,000	(15)	298	394	474	474
12,000	22	240	592	712	712
16,000	DNQ	117	514	640	640
20,000	DNQ	494	241	367	367
24,000	DNQ	366	(50)	75	75
28,000	DNQ	239	518	(216)	(216)
32,000	DNQ	111	349	(507)	(507)
36,000	DNQ	DNQ	181	(356)	(799)
40,000	DNQ	DNQ	12	138	(1,090)
44,000	DNQ	DNQ	DNQ	DNQ	(1,351)
48,000+	DNQ	DNQ	DNQ	DNQ	DNQ
Married filers					
$4,000	(62)	149	197	237	237
8,000	(154)	298	394	474	474
12,000	(277)	240	592	712	712
16,000	37	117	514	640	640
20,000	DNQ	(5)	392	517	517
24,000	DNQ	231	160	286	286
28,000	DNQ	398	(131)	(5)	(5)
32,000	DNQ	270	(422)	(297)	(297)
36,000	DNQ	143	391	(588)	(588)
40,000	DNQ	15	223	(879)	(879)
44,000	DNQ	DNQ	55	180	(1,170)
48,000	DNQ	DNQ	DNQ	12	(1,462)
52,000	DNQ	DNQ	DNQ	DNQ	(958)
56,000+	DNQ	DNQ	DNQ	DNQ	DNQ

NOTE: DNQ: Does not qualify for either the SP or federal EITC and would not be affected. Assumptions for this table: family investment income is $2,950 or less; family has wage income; all married filers are filing jointly; at least one parent is between the ages of 25 and 65; and children are under age 19, in school under the age of 24, or permanently disabled.

SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book; PDR, PIT Return 2008 Instructions, 36.

Table 21

EFFECT ON FAMILIES OF REPLACING SP
WITH 30 PERCENT STATE EITC, BY FILING STATUS, INCOME,
AND NUMBER OF DEPENDENTS (2009)

Filing status and income	**Amount gained (lost) by replacing SP with a 30% EITC**				
	No children	**1 child**	**2 children**	**3 children**	**4 children**
Single filers					
$4,000	($31)	$285	$357	$417	$417
8,000	27	570	714	834	834
12,000	33	545	1,072	1,252	1,252
16,000	DNQ	422	1,017	1,206	1,206
20,000	DNQ	741	668	857	857
24,000	DNQ	550	293	481	481
28,000	DNQ	358	777	106	106
32,000	DNQ	166	524	(270)	(270)
36,000	DNQ	DNQ	271	(203)	(645)
40,000	DNQ	DNQ	19	207	(1,021)
44,000	DNQ	DNQ	DNQ	DNQ	(1,351)
48,000+	DNQ	DNQ	DNQ	DNQ	DNQ
Married filers					
$4,000	(31)	285	357	417	417
8,000	(109)	570	714	834	834
12,000	(231)	545	1,072	1,252	1,252
16,000	56	422	1,017	1,206	1,206
20,000	DNQ	299	894	1,083	1,083
24,000	DNQ	494	609	797	797
28,000	DNQ	597	233	422	422
32,000	DNQ	406	(142)	46	46
36,000	DNQ	214	587	(329)	(329)
40,000	DNQ	22	335	(705)	(705)
44,000	DNQ	DNQ	82	270	(1,080)
48,000	DNQ	DNQ	DNQ	18	(1,456)
52,000	DNQ	DNQ	DNQ	DNQ	(958)
56,000+	DNQ	DNQ	DNQ	DNQ	DNQ

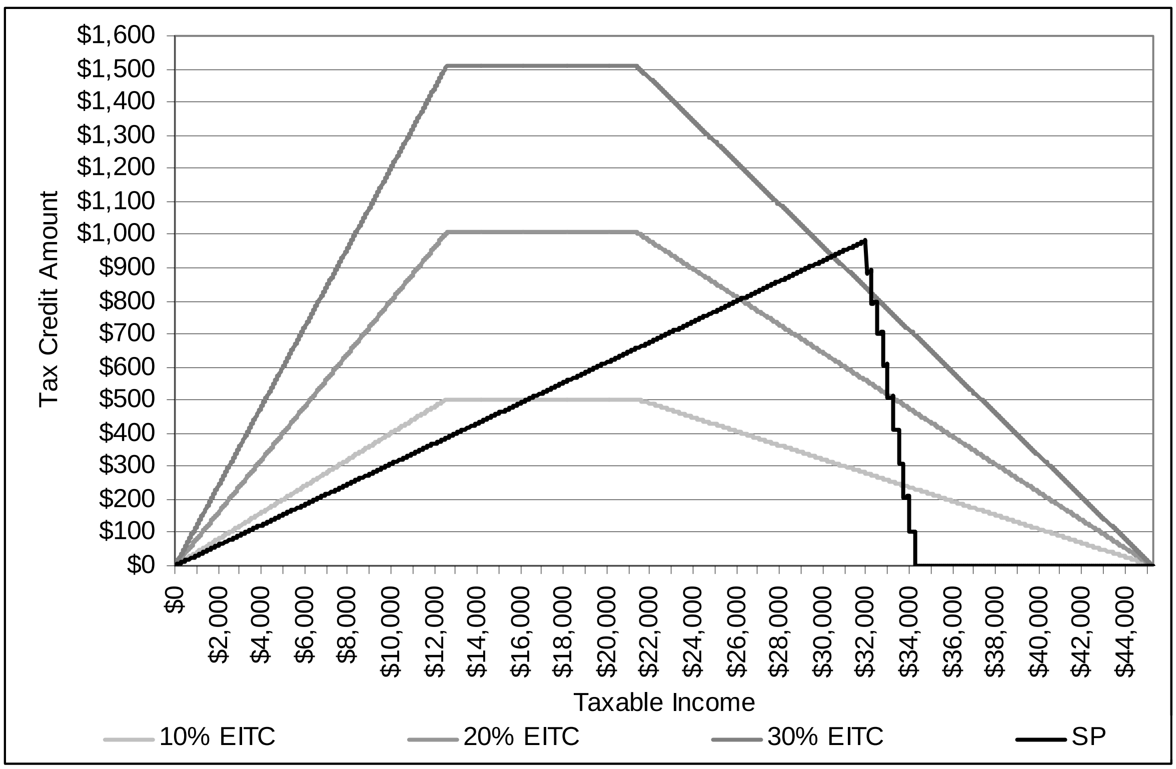
NOTE: DNQ: Does not qualify for either the SP or federal EITC and would not be affected. Assumptions for this table: family investment income is $2,950 or less; family has wage income; all married filers file jointly; at least one parent is between the ages of 25 and 65; and children are under age 19, in school under the age of 24, or permanently disabled.

SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book; PDR, PIT Return 2008 Instructions, 36.

Figure 5 is a graphical comparison of what a married couple with two children would receive in tax credits retaining SP or replacing it with a state EITC at credit percentages of 10, 20, and 30 percent. If a state EITC replaced the current SP, whether such a family under EITC benefits more or less than under SP depends on their annual income and the credit percentage of the state EITC. For example, if this family earns $31,000 per year, they would be better off under SP than under any proposed state EITC plan, but if they earn $24,000, they would be better off with a 20 or 30 percent state EITC and worse off under a 10 percent state EITC than under SP. At earning below about $16,360, the family would benefit more under any state EITC within the 10 to 30 percent range than they do under SP.

Figure 5

SP CREDIT AND 10, 20, AND 30 PERCENT EITC FOR A MARRIED
COUPLE WITH TWO CHILDREN BY TAXABLE INCOME (2009)



NOTE: Assumptions for this figure: family investment income is $2,950 or less; family has wage income; the couple files jointly; at least one parent is between the ages of 25 and 65; and children are under age 19, in school under the age of 24, or permanently disabled.

SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book; PDR, PIT Return 2008 Instructions, 36.

The cost to the Commonwealth of adopting an EITC at different credit percentages without regard to SP was shown in Table 6. To determine the cost of replacing SP with EITC, Table 22 subtracts the amount that would have been spent on SP from the cost of EITC at each of the credit percentages used throughout this report. These estimates assume the credits are fully refundable and do not include the effect of the recent expansion of EITC under ARRA.

Table 22

ESTIMATED FISCAL COST OF STATE EARNED INCOME TAX CREDIT
REPLACING SP BY YEAR AND CREDIT PERCENTAGE
(Dollars in millions)

	FY 2009-10		FY 2010-11	
Credit percentage	**Estimated cost of PA EITC (not accounting for current SP cost)[1]**	**Estimated cost (savings) of replacing SP with EITC[2]**	**Estimated cost of PA EITC (not accounting for current SP cost)[1]**	**Estimated cost (savings) of replacing SP with EITC[3]**
3.5%	$50.0	($226.3)	$50.6	($217.40)
5.0	71.4	(204.9)	72.3	(195.70)
10.0	142.9	(133.4)	144.6	(123.40)
15.0	214.3	(62.0)	216.7	(51.30)
20.0	285.8	9.5	289.3	$21.30
25.0	357.2	80.9	361.6	$93.60
30.0	428.7	152.4	433.9	$165.90
35.0	500.1	223.8	506.3	$238.30

1. Amounts based on Pennsylvania share of federal EITC payments.
2. Estimated cost of Pennsylvania EITC minus the estimated cost of SP in 2010 ($276.3 million).
3. Estimated cost of Pennsylvania EITC minus the estimated cost of SP in 2011 ($268.0 million).

SOURCE: Brookings, "EITC Interactive" (EITC costs); PDR, Bureau of Research, unpublished data provided to the Commission, May 20, 2009 (SP costs).

Carrying forward the analysis used elsewhere in this report, the cost of a replacement 20 percent EITC for FY 2009-10 represents 0.09 percent of PIT receipts and funding it from the PIT would not raise the tax rate. The cost represents 0.11 percent of sales tax receipts and would raise the statewide rate to 6.01 percent. The cost represents 0.04 percent of receipts allocated to the General Fund.

Table 23 shows the economic impact of instituting a state EITC for the indicated individual and family structures at illustrative earnings levels at each of the credit percentages used throughout this report. These impacts are shown for each of the broad alternatives discussed: replacement of SP with EITC, election between SP and EITC, and addition of EITC to SP.

Table 23

ECONOMIC IMPACT ON FAMILIES AND INDIVIDUALS OF STATE EITC
AT CREDIT PERCENTAGES OF 10, 20, OR 30 PERCENT (2009)

	Amount gained (lost) with a 10% EITC	**Amount gained (lost) with a 20% EITC**	**Amount gained (lost) with a 30% EITC**
Replacement			
Single, no dependents			
Earning the 2009 FPL ($10,830/yr)	$20	$40	$60
Working full-time at min. wage ($15,080/yr)	DNQ	DNQ	DNQ
Single, 2 dependents			
Working full-time at min. wage ($15,080/yr)	40	543	1,045
Earning the 2009 FPL ($18,310/yr.)	(99)	364	827
Married, 2 dependents			
1 Parent working full-time at min. wage ($15,080/yr)	40	543	1,045
Earning the 2009 FPL ($22,050/yr.)	(188)	301	790
2 Parents working full-time at min. wage ($30,160/yr)	(608)	(289)	29
Elective			
Single, no dependents			
Earning the 2009 FPL	$20	$40	$60
Working full-time at min. wage	DNQ	DNQ	DNQ
Single, 2 dependents			
Working full-time at min. wage	40	543	1,045
Earning the 2009 FPL	SP	364	827
Married, 2 dependents			
1 Parent working full-time at min. wage	40	543	1,045
Earning the 2009 FPL	SP	301	790
2 Parents working full-time at min. wage	SP	SP	29
Additional			
Single, no dependents			
Earning the 2009 FPL	$20	$40	$60
Working full-time at min. wage	DNQ	DNQ	DNQ
Single, 2 dependents			
Working full-time at min. wage	503	1,006	1,508
Earning the 2009 FPL	463	926	1,389
Married, 2 dependents			
1 Parent working full-time at min. wage	503	1,006	1,508
Earning the 2009 FPL	489	978	1,467
2 Parents working full-time at min. wage	318	637	955

NOTE: SP: Would not benefit more from a State EITC than from current SP. DNQ: Does not qualify for either SP or EITC. Assumptions for this table: each family has only wage income; all married filers file jointly; at least one parent is between the ages of 25 and 65; and dependents are under the age of 19, in school under the age of 24, or permanently disabled.

SOURCE: Data from Tax Policy Center, The Tax Policy Briefing Book; PDR, PIT Return 2008 Instructions, 36.

CONCLUSION

This report presents a description of the Federal EITC, the EITCs enacted in other states, and Pennsylvania's SP or tax forgiveness provision. It then analyzes three plans aimed at improving the treatment under the PIT of low-income working families: adding a state EITC with no change to the present law, replacing the current SP with a state EITC, or permitting tax filers to elect between SP and a state EITC. The report provides detailed data on the fiscal and benefit impact of these alternatives at credit percentages of 10, 20, and 30 percent.

It almost goes without saying that any consideration of a tax expenditure must take into account the economic difficulties currently facing the Commonwealth. The current recession not only constrains tax revenues but also creates hardships that will fall heavily on Pennsylvania's poorest citizens. It is hoped that the data and analysis included in this report will assist the General Assembly in formulating a tax policy that responds to these realities.

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APPENDIX A
TAX REFORM CODE SECTION 304.1

Section 304.1. Alternative Special Tax Provision for Poverty Study.

(a) The General Assembly directs the Joint State Government Commission to conduct or provide for a comprehensive study to determine whether alternative forms of special tax provisions for poverty would be more beneficial to persons who, because of poverty, are determined to be in need of special tax provisions.

(b) The study shall include a comparison between the special tax provisions for poverty set forth under section 304 and the earned income credit allowable under section 32 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 32), as amended.

(c) The study shall consider any effects of linking the alternative special tax provisions for poverty to federal law, including any misuse that may be inherent in the federal program.

(d) The study shall ascertain any differences between the fiscal costs to the Commonwealth of the special tax provisions for poverty set forth under section 304 and projected fiscal costs of other alternative provisions.

(e) The Joint State Government Commission is authorized to hire or retain consultants, utilizing a request for proposal procedure, as necessary to assist in the performance of its duties under this section.

(f) The executive director of the Joint State Government Commission shall present a report summarizing the results of this study to the chairman and the minority chairman of the Finance Committee of the Senate and the chairman and the minority chairman of the Finance Committee of the House of Representatives after August 1, 2009, and before September 1, 2009.

APPENDIX B
EITC LEGISLATION IN OTHER STATES

Colorado Revised Statutes (Colo. Rev. Stat.)

§ 39-22-123.

(1) (a) Repealed.

(b) Subject to the provisions of subsection (4) of this section, for any income tax year commencing on or after January 1, 2000, if, based on the financial report prepared by the controller in accordance with section 24-77-106.5, C.R.S., the controller certifies that the amount of state revenues for the state fiscal year ending in that income tax year exceeds the limitation on state fiscal year spending imposed by section 20 (7) (a) of article X of the state constitution and the voters statewide either have not authorized the state to retain and spend all of the excess state revenues or have authorized the state to retain and spend only a portion of the excess state revenues for that fiscal year, a resident individual or part-year resident individual who claims an earned income tax credit on the individual's federal tax return shall be allowed an earned income tax credit against the taxes due on the individual's income under this article. The amount of the credit shall be an amount equal to ten percent of the amount of the federal credit claimed on the resident individual's federal tax return or, in the case of a part-year resident individual, such amount as shall reflect ten percent of the federal earned income credit earned while a resident of Colorado.

(2) If the credit allowed under subsection (1) of this section exceeds the income taxes due on the resident individual's income, the amount of the credit not used to offset income taxes shall not be carried forward as tax credits against the resident individual's subsequent years' income tax liability and shall be refunded to the individual.

(3) Any earned income tax credit allowed for any given taxable year pursuant to this section shall be published in rules promulgated by the executive director of the department of revenue in accordance with article 4 of title 24, C.R.S., and shall be included in income tax forms for that taxable year.

(4) (a) If, based on the financial report prepared by the controller in accordance with section 24-77-106.5, C.R.S., the controller certifies that the amount of state revenues for the state fiscal year commencing on July 1, 1998, exceeds the limitation on state fiscal year spending imposed by section 20 (7) (a) of article X of the state constitution for that fiscal year by less than fifty million dollars, then the credit authorized by subsection (1) of this section shall not be allowed for the income tax year commencing on January 1, 1999.

(b) If, based on the financial report prepared by the controller in accordance with section 24-77-106.5, C.R.S., the controller certifies that the amount of state revenues for any state fiscal year commencing on or after July 1, 1999, exceeds the limitation on state fiscal year spending imposed by section 20 (7) (a) of article X of the state constitution for that fiscal year by less than fifty million dollars, as adjusted pursuant to paragraph (c) of this subsection (4), then the credit authorized by subsection (1) of this section shall not be allowed for the income tax year in which said state fiscal year ended.

(c) (I) No later than October 1 of any given calendar year commencing on or after January 1, 2000, the executive director of the department of revenue shall annually adjust the dollar amount specified in paragraph (b) of this subsection (4) to reflect the rate of growth of Colorado personal income for the calendar year immediately preceding the calendar year in which such adjustment is made. For purposes of this subparagraph (I), "the rate of growth of Colorado personal income" means the percentage change between the most recent published annual estimate of total personal income for Colorado, as defined and officially reported by the bureau of economic analysis in the United States department of commerce for the calendar year immediately preceding the calendar year in which the adjustment is made and the most recent published annual estimate of total personal income for Colorado, as defined and officially reported by the bureau of economic analysis in the United States department of commerce for the calendar year prior to the calendar year immediately preceding the calendar year in which the adjustment is made.

(II) Upon calculating the adjustment of said dollar amount in accordance with subparagraph (I) of this paragraph (c), the executive director shall notify in writing the executive committee of the legislative council created pursuant to section 2-3-301 (1), C.R.S., of the adjusted dollar amount and the basis for the adjustment. Such written notification shall be given within five working days after such calculation is completed, but such written notification shall be given no later than October 1 of the calendar year.

(III) It is the function of the executive committee to review and approve or disapprove such adjustment of said dollar amount within twenty days after receipt of such written notification from the executive director. Any adjustment that is not approved or disapproved by the executive committee within said twenty days shall be automatically approved; except that, if within said twenty days the executive committee schedules a hearing on such adjustment, such automatic approval shall not occur unless the executive committee does not approve or disapprove such adjustment after the conclusion of such hearing. Any hearing conducted by the executive committee pursuant to this subparagraph (III) shall be concluded no later than twenty-five days after receipt of such written notification from the executive director.

(IV) (A) If the executive committee disapproves any adjustment of said dollar amount calculated by the executive director pursuant to this paragraph (c), the executive

committee shall specify such adjusted dollar amount to be utilized by the executive director. Any adjusted dollar amount specified by the executive committee pursuant to this sub-subparagraph (A) shall be calculated in accordance with the provisions of this paragraph (c).
(B) For the purpose of determining whether the credit authorized by subsection (1) of this section is to be allowed for any given income tax year, the executive director shall not utilize any adjusted dollar amount that has not been approved pursuant to subparagraph (III) of this paragraph (c) or otherwise specified pursuant to sub-subparagraph (A) of this subparagraph (IV).
(V) If one or more ballot questions are submitted to the voters at a statewide election to be held in November of any calendar year commencing on or after January 1, 1999, that seek authorization for the state to retain and spend all or any portion of the amount of excess state revenues for the state fiscal year ending during said calendar year, the executive director shall not determine whether the credit authorized by subsection (1) of this section shall be allowed and shall not promulgate rules containing said credit until the impact of the results of said election on the amount of the excess state revenues to be refunded is ascertained.

(5) The general assembly finds and declares that an earned income tax credit is a reasonable method of refunding a portion of the state excess revenues required to be refunded in accordance with section 20 (7) (d) of article X of the state constitution.

Delaware Code (Del. Code)

Title 30, § 1117. Earned income tax credit.

(a) An individual who is a resident of this state shall be entitled to a nonrefundable credit against the individual's tax otherwise due under this chapter in the amount of 20 percent of the corresponding federal earned income credit allowed pursuant to § 32 or successor provision of the Internal Revenue Code [26 U.S.C. § 32].

(b) In the case of spouses who file a joint federal return but who elect to determine their Delaware taxes separately, the credit allowed under subsection (a) of this section may only be used by the spouse with the greater tax otherwise due, computed without regard to this credit.

(c) In no event shall the credit allowed under subsection (a) of this section exceed the tax otherwise due under this chapter.

District of Columbia Code (D.C. Code)

§ 47-1806.04. Tax on Residents and nonresidents—Credits—In general.

(f)(1) If a return is filed for a full calendar or fiscal year beginning after December 31, 2004, an individual who is allowed an earned income tax credit under section 32 of the Internal Revenue Code of 1986 shall be allowed a credit against the tax imposed by this chapter for the taxable year in an amount equal to 40 percent of the earned income tax credit allowed under section 32 of the Internal Revenue Code of 1986; provided, that the credit shall not be allowed to a resident who has elected to claim the low income tax credit provided for in subsection (e) of this section.

(2) If a return is filed for a period of less than a full calendar or fiscal year beginning after December 31, 2004, the credit allowed under this subsection shall be reduced to the amount that bears the same ratio to the credit computed under the provisions of paragraph (1) of this subsection as the number of months in the period for which the return is made bears to 12 months.

(3) The credit allowed under this subsection shall be refundable to the resident claiming the credit.

(g)(1) A taxpayer described in paragraph (2) of this subsection, and who otherwise would not qualify for the earned income tax credit under subsection 32(b) of the Internal Revenue Code of 1986, shall be allowed a credit equal to the credit allowed in subsection (f) of this section.

(2) To qualify for a credit as described in subsection (f) of this section, a taxpayer shall satisfy all the following requirements during the entire period for which the taxpayer seeks the credit:

(A) The taxpayer shall be a District resident taxpayer;

(B) The taxpayer shall be between the ages of 18 and 30;

(C) The taxpayer shall be the parent of a minor child with whom the taxpayer does not reside;

(D) A court order shall require the taxpayer to make child support payments, which are payable through a government-sponsored support collection unit, which order must have been in effect for at least one-half of the taxable year for which the taxpayer is seeking the credit; and

(E) The taxpayer shall have paid an amount in child support in the taxable year at least equal to the amount of current child support due during the taxable year for which the taxpayer is seeking the credit.

Illinois Compiled Statutes (Ill. Comp. Stat.)

Title 35, § 5/212. Earned income tax credit.

(a) With respect to the federal earned income tax credit allowed for the taxable year under Section 32 of the federal Internal Revenue Code, 26 U.S.C. 32, each individual taxpayer is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to 5 percent of the federal tax credit for each taxable year beginning on or after January 1, 2000.

For a non-resident or part-year resident, the amount of the credit under this Section shall be in proportion to the amount of income attributable to this state.

(b) For taxable years beginning before January 1, 2003, in no event shall a credit under this Section reduce the taxpayer's liability to less than zero. For each taxable year beginning on or after January 1, 2003, if the amount of the credit exceeds the income tax liability for the applicable tax year, then the excess credit shall be refunded to the taxpayer. The amount of a refund shall not be included in the taxpayer's income or resources for the purposes of determining eligibility or benefit level in any means-tested benefit program administered by a governmental entity unless required by federal law.

(c) This Section is exempt from the provisions of Section 250.

Indiana Code (Ind. Code)

§ 6-3.1-21-1. Creation of credit.

Sec. 1. This chapter creates the Indiana earned income tax credit.

§ 6-3.1-21-6 Version b. Credit; amount; calculation; eligible persons.

Note: This version of section amended by P.L.131-2008, SEC.17, effective 1-1-2009.

Sec. 6. (a) Except as provided by subsection (b), an individual who is eligible for an earned income tax credit under Section 32 of the Internal Revenue Code is eligible for a credit under this chapter equal to six percent (6%) of the amount of the federal earned income tax credit that the individual:

(1) is eligible to receive in the taxable year; and

(2) claimed for the taxable year;

under Section 32 of the Internal Revenue Code.

(b) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the amount of the credit is equal to the product of:

(1) the amount determined under subsection (a); multiplied by

(2) the quotient of the taxpayer's income taxable in Indiana divided by the taxpayer's total income.

(c) If the credit amount exceeds the taxpayer's adjusted gross income tax liability for the taxable year, the excess, less any advance payments of the credit made by the taxpayer's employer under IC 6-3-4-8 that reduce the excess, shall be refunded to the taxpayer.

§ 6-3.1-21-6 Version c. Credit; amount; calculation; eligible persons.

Note: This version of section amended by P.L.146-2008, SEC.325, effective 1-1-2009.

Sec. 6. (a) An individual who is eligible for an earned income tax credit under Section 32 of the Internal Revenue Code is eligible for a credit under this chapter equal to nine percent (9%) of the amount of the federal earned income tax credit that the individual:

(1) is eligible to receive in the taxable year; and

(2) claimed for the taxable year;

under Section 32 of the Internal Revenue Code.

(b) If the credit amount exceeds the taxpayer's adjusted gross income tax liability for the taxable year, the excess, less any advance payments of the credit made by the taxpayer's employer under IC 6-3-4-8 that reduce the excess, shall be refunded to the taxpayer.

§ 6-3.1-21-8. Claim for credit on return or advance payment; submission of information.

Sec. 8. To obtain a credit under this chapter or the advance payment of a credit under this chapter provided under IC 6-3-4-8, a taxpayer must claim the advance payment or credit in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue all information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter.

§ 6-3.1-21-9. Application of credit to TANF.

Sec. 9. (a) The division of family resources shall apply the refundable portion of the credits provided under this chapter as expenditures toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 265).

(b) The department of state revenue shall collect and provide the data requested by the division of family resources that is necessary to comply with this section.

Iowa Code

Title 10, § 422.12B. Earned income tax credit.

1. The taxes imposed under this division less the credits allowed under section 422.12 shall be reduced by an earned income credit equal to seven percent of the federal earned income credit provided in section 32 of the Internal Revenue Code. Any credit in excess of the tax liability is refundable.

2. Married taxpayers electing to file separate returns or filing separately on a combined return may avail themselves of the earned income credit by allocating the earned income credit to each spouse in the proportion that each spouse's respective earned income bears to the total combined earned income. Taxpayers affected by the allocation provisions of section 422.8 shall be permitted a deduction for the credit only in the amount fairly and equitably allocable to Iowa under rules prescribed by the director.

Kansas Statutes (Kan. Stats.)

§ 79-32,205. Earned income tax credit.

(a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to 17 percent for tax year 2007, and all tax years thereafter, of the amount of the earned income credit allowed against such taxpayer's federal income tax liability pursuant to section 32 of the federal internal revenue code for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) If the amount of the credit allowed by subsection (a) exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.

Louisiana Revised Statutes (La. Rev. Stat.)

§ 47:297.8. Earned income tax credit.

A. There shall be a credit against the tax imposed by this Chapter for individuals in an amount equal to three and one-half percent of the federal earned income tax credit for which the individual is eligible for the taxable year under Section 32 of the Internal Revenue Code.

B. If the credit against Louisiana income tax for resident individuals exceeds the amount of such individual's tax liability for the taxable year, then such excess tax credit shall constitute an overpayment from the current collections of the taxes imposed under this Part. The right to a refund of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B).

Maine Statutes (Me. Stat.)

Title 36, § 5219-S. Earned income credit.

A taxpayer is allowed a credit against the taxes otherwise due under this Part equal to 5 percent of the federal earned income credit for the same taxable year, except that for tax years beginning in 2003, 2004 and 2005, the applicable percentage is 4.92 percent instead of 5 percent. The credit may not reduce the state income tax to less than zero.

Maryland General Tax Code (Md. Code, Tax-Gen)

§ 10-704.

(a) (1) An individual may claim a credit against the state income tax for a taxable year in the amount determined under subsection (b) of this section for earned income.

(2) An individual may claim a credit against the county income tax for a taxable year in the amount determined under subsection (c) of this section for earned income.

(b) (1) Except as provided in paragraph (2) of this subsection and subject to subsection (d) of this section, the credit allowed against the state income tax under subsection (a)(1) of this section is the lesser of:

(i) 50 percent of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code; or

(ii) the state income tax for the taxable year.

(2) An individual may claim a refund in the amount, if any, by which 25 percent of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code exceeds the state income tax for the taxable year.

(c) (1) Except as provided in paragraph (2) of this subsection and subject to subsection (d) of this section, the credit allowed against the county income tax under subsection (a)(2) of this section is the lesser of:

(i) the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code multiplied by 10 times the county income tax rate for the taxable year; or

(ii) the county income tax for the taxable year.

(2) (i) A county may provide, by law, for a refundable county earned income credit as provided in this paragraph.

(ii) If a county provides for a refundable county earned income credit under this paragraph, on or before July 1 prior to the beginning of the first taxable year for which it is applicable, the county shall give the Comptroller notice of the refundable county earned income credit.

(iii) If a county provides for a refundable county earned income credit under this paragraph, an individual may claim a refund of the amount, if any, by which the product of multiplying the credit allowable for the taxable year under § 32 of the Internal Revenue Code by 5 times the county income tax rate for the taxable year exceeds the county income tax for the taxable year.

(iv) The amount of any refunds payable under a refundable county earned income credit operates to reduce the income tax revenue from individuals attributable to the county income tax for that county.

(d) For an individual who is a nonresident or is a resident of the state for only a part of the year, the amount of the credit or refund allowed under this section shall be determined based on the part of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code that is attributable to Maryland, determined by multiplying the federal earned income credit by a fraction:

(1) the numerator of which is the Maryland adjusted gross income of the individual; and

(2) the denominator of which is the federal adjusted gross income of the individual.

Massachusetts General Laws (Mass. Gen. Laws)

Ch. 62, § 6.

The following credits shall be allowed against the tax imposed by this chapter:

(h) A taxpayer shall be allowed a credit against the taxes imposed by this chapter if such person qualified for and claimed the earned income credit, so called, allowed under the provisions of section 32 of the Code, as amended and in effect for the taxable year. The credit allowed by this subsection shall equal 15 per cent of the federal credit received by the taxpayer for the taxable year. If other credits allowed under this section are utilized by the taxpayer for the taxable year, the credit afforded by this subsection shall be applied last. If the amount of the credit allowed hereunder exceeds the taxpayer's liability, the commissioner shall treat such excess as an overpayment and shall pay the taxpayer the amount of such excess, without interest.

Michigan Compiled Laws (Mich. Comp. Laws)

§ 206.272.

(1) For the following tax years that begin after December 31, 2007, a taxpayer may credit against the tax imposed by this act an amount equal to the specified percentages of the credit the taxpayer is allowed to claim as a credit under section 32 of the internal revenue code for a tax year on a return filed under this act for the same tax year:

(a) For tax years that begin after December 31, 2007 and before January 1, 2009, 10 percent.

(b) For tax years that begin after December 31, 2008, 20 percent.

(2) If the credit allowed by this section exceeds the tax liability of the taxpayer for the tax year, the state treasurer shall refund the excess to the taxpayer without interest, except as provided in section 30 of 1941 PA 122, MCL 205.30.

Minnesota Statutes (Minn. Stat.)

§ 290.0671 Minnesota working family credit.

Subdivision 1. Credit allowed.

(a) An individual is allowed a credit against the tax imposed by this chapter equal to a percentage of earned income. To receive a credit, a taxpayer must be eligible for a credit under section 32 of the Internal Revenue Code.

(b) For individuals with no qualifying children, the credit equals 1.9125 percent of the first $4,620 of earned income. The credit is reduced by 1.9125 percent of earned income or adjusted gross income, whichever is greater, in excess of $5,770, but in no case is the credit less than zero.

(c) For individuals with one qualifying child, the credit equals 8.5 percent of the first $6,920 of earned income and 8.5 percent of earned income over $12,080 but less than $13,450. The credit is reduced by 5.73 percent of earned income or adjusted gross income, whichever is greater, in excess of $15,080, but in no case is the credit less than zero.

(d) For individuals with two or more qualifying children, the credit equals ten percent of the first $9,720 of earned income and 20 percent of earned income over $14,860 but less than $16,800. The credit is reduced by 10.3 percent of earned income or adjusted gross income, whichever is greater, in excess of $17,890, but in no case is the credit less than zero.

(e) For a nonresident or part-year resident, the credit must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).

(f) For a person who was a resident for the entire tax year and has earned income not subject to tax under this chapter, including income excluded under section 290.01, subdivision 19b, clause (10) or (16), the credit must be allocated based on the ratio of federal adjusted gross income reduced by the earned income not subject to tax under this chapter over federal adjusted gross income. For purposes of this paragraph, the subtractions for military pay under section 290.01, subdivision 19b, clauses (11) and (12), are not considered "earned income not subject to tax under this chapter."
For the purposes of this paragraph, the exclusion of combat pay under section 112 of the Internal Revenue Code is not considered "earned income not subject to tax under this chapter."
(g) For tax years beginning after December 31, 2001, and before December 31, 2004, the $5,770 in paragraph (b), the $15,080 in paragraph (c), and the $17,890 in paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by $1,000 for married taxpayers filing joint returns.
(h) For tax years beginning after December 31, 2004, and before December 31, 2007, the $5,770 in paragraph (b), the $15,080 in paragraph (c), and the $17,890 in paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by $2,000 for married taxpayers filing joint returns.
(i) For tax years beginning after December 31, 2007, and before December 31, 2010, the $5,770 in paragraph (b), the $15,080 in paragraph (c), and the $17,890 in paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by $3,000 for married taxpayers filing joint returns. For tax years beginning after December 31, 2008, the $3,000 is adjusted annually for inflation under subdivision 7.
(j) The commissioner shall construct tables showing the amount of the credit at various income levels and make them available to taxpayers. The tables shall follow the schedule contained in this subdivision, except that the commissioner may graduate the transition between income brackets.

Subd. 1a. Definitions.
For purposes of this section, the terms "qualifying child," and "earned income," have the meanings given in section 32(c) of the Internal Revenue Code, and the term "adjusted gross income" has the meaning given in section 62 of the Internal Revenue Code.
"Earned income of the lesser-earning spouse" has the meaning given in section 290.0675, subdivision 1, paragraph (d).

Subd. 2. Credit name.
The credit allowed by this section shall be known as the "Minnesota working family credit."

Subd. 3.
[Repealed, 2003 c 127 art 3 s 24]

Subd. 4. Credit refundable.
If the amount of credit which the claimant is eligible to receive under this section exceeds the claimant's tax liability under this chapter, the commissioner shall refund the excess to the claimant.

Subd. 5. Calculation assistance.
Upon request of the individual and submission of the necessary information, in the form prescribed by the commissioner, the Department of Revenue shall calculate the credit on behalf of the individual.

Subd. 6. Appropriation.
An amount sufficient to pay the refunds required by this section is appropriated to the commissioner from the general fund. This amount includes any amounts appropriated to the commissioner of human services from the federal Temporary Assistance for Needy Families (TANF) block grant funds for transfer to the commissioner of revenue.

Subd. 6a. TANF appropriation for working family credit expansion.
(a) On an annual basis the commissioner of revenue, with the assistance of the commissioner of human services, shall calculate the value of the refundable portion of the Minnesota Working Family Credit provided under this section that qualifies for payment with funds from the federal Temporary Assistance for Needy Families (TANF) block grant. Of this total amount, the commissioner of revenue shall estimate the portion entailed by the expansion of the credit rates for individuals with qualifying children over the rates provided in Laws 1999, chapter 243, article 2, section 12.
(b) An amount sufficient to pay the refunds entailed by the expansion of the credit rates for individuals with qualifying children over the rates provided in Laws 1999, chapter 243, article 2, section 12, as estimated in paragraph (a), is appropriated to the commissioner of human services from the federal Temporary Assistance for Needy Families (TANF) block grant funds, for transfer to the commissioner of revenue for deposit in the general fund.

Subd. 7. Inflation adjustment.
The earned income amounts used to calculate the credit and the income thresholds at which the maximum credit begins to be reduced in subdivision 1 must be adjusted for inflation. The commissioner shall adjust by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B) the word "1999" shall be substituted for the word "1992." For 2001, the commissioner shall then determine the percent change from the 12 months ending on August 31, 1999, to the 12 months ending on August 31, 2000, and in each subsequent year, from the 12 months ending on August 31, 1999, to the 12 months ending on August 31 of the year preceding the taxable year. The earned income thresholds as adjusted for inflation must be rounded to the nearest $10 amount. If the amount ends in $5, the amount is rounded up to the nearest $10 amount. The determination of the commissioner under this subdivision is not a rule under the Administrative Procedure Act.

Nebraska Revised Statutes (Neb. Rev. Stat.)

§ 77-2715.07. Income tax credits.

(1) There shall be allowed to qualified resident individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(e) A refundable credit equal to ten percent of the federal credit allowed under section 32 of the Internal Revenue Code of 1986, as amended.

New Jersey Statutes (N.J. Stat.)

§ 54A:4-6. Findings, declarations relative to an earned income tax credit.

1. The Legislature finds and declares that:

a. Since its enactment in 1975, the federal earned income tax credit has received bipartisan support and has proven to be one of the nation's most effective anti-poverty programs for working families by encouraging work, supplementing earnings and lifting nearly five million people out of poverty each year, approximately half of them children;

b. The federal earned income tax credit has contributed to a significant increase in labor force participation among New Jersey families;

c. A New Jersey Earned Income Tax Credit will build upon the federal program by cutting taxes for families struggling to provide for their children, reducing child poverty, supporting welfare-to-work efforts and making New Jersey a better place to live, work and raise a family;

d. Over the last six years, New Jersey's unemployment rate has fallen to its lowest rate in nearly a decade, and a significant number of the state's families who were dependent on welfare have made the transition from public assistance to work, often beginning in low-wage or entry-level positions; and

e. A New Jersey Earned Income Tax Credit can further promote work and job retention by supplementing the incomes of nearly 280,000 low-income working families as they move up the career ladder and remain independent from public assistance.

§ 54A:4-7 New Jersey Earned Income Tax Credit Program.

2. There is established the New Jersey Earned Income Tax Credit program in the Division of Taxation in the Department of the Treasury.

a. (1) A resident individual who is eligible for a credit under section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.32) shall be allowed a credit for the taxable year equal to a percentage, as provided in paragraph (2) of this subsection, of the federal earned income tax credit allowed to and claimed by the individual or by the married individuals filing a joint return under section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.32) for the same taxable year for which a credit is claimed pursuant to this section, subject to the restrictions of this subsection and subsections b., c., d. and e. of this section.

(2) For the purposes of the calculation of the New Jersey earned income tax credit, the percentage of the federal earned income tax credit referred to in paragraph (1) of this subsection shall be:

(a) 10% for the taxable year beginning on or after January 1, 2000, but before January 1, 2001;

(b) 15% for the taxable year beginning on or after January 1, 2001, but before January 1, 2002;

(c) 17.5% for the taxable year beginning on or after January 1, 2002, but before January 1, 2003;

(d) 20% for taxable years beginning on or after January 1, 2003, but before January 1, 2008;

(e) 22.5% for taxable years beginning on or after January 1, 2008 but before January 1, 2009; and

(f) 25% for taxable years beginning on or after January 1, 2009.

(3) To qualify for the New Jersey earned income tax credit, if the claimant is married, except for a claimant who files as a head of household or surviving spouse for federal income tax purposes for the taxable year, the claimant shall file a joint return or claim for the credit.

b. In the case of a part-year resident claimant, the amount of the credit allowed pursuant to this section shall be pro-rated, based upon that proportion which the total number of months of the claimant's residency in the taxable year bears to 12 in that period. For this purpose, 15 days or more shall constitute a month.

c. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:1-1 et seq., after all other credits and payments. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7; provided however, that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit provided under this section as a credit against the tax otherwise due and the amount of the credit treated as an overpayment shall be treated as a credit towards or overpayment of gross income tax, subject to all provisions of N.J.S.54A:1-1 et seq., except as may be otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).

d. The Director of the Division of Taxation in the Department of the Treasury shall have discretion to establish a program for the distribution of earned income tax credits pursuant to the provisions of this section.

e. Any earned income tax credit pursuant to this section shall not be taken into account as income or receipts for purposes of determining the eligibility of an individual for benefits or assistance or the amount or extent of benefits or assistance under any state program and, to the extent permitted by federal law, under any state program financed in whole or in part with federal funds.

§ 54A:4-8. Annual appropriation for administration.

3. There shall be annually appropriated to the Department of the Treasury such amount as the Director of the Division of Budget and Accounting in the Department of the Treasury shall determine is necessary for the administrative cost of implementing the provisions of this act.

§ 54A:4-9. Availability of statistical information.

4. The Department of the Treasury shall make available to the Department of Human Services necessary statistical information obtained with respect to the New Jersey Earned Income Tax Credit program, in a usable format and in a timely manner, to prepare federal and other reports.

§ 54A:4-10. Regulations.

5. a. The Director of the Division of Taxation in the Department of the Treasury shall adopt regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and prescribe forms to administer the provisions of this act.

b. Notwithstanding the provisions of P.L.1968, c.410 to the contrary, the director may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the director deems necessary to implement the provisions of this act, which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The regulation may thereafter be amended, adopted or readopted by the director as the director deems necessary in accordance with the requirements of P.L.1968, c.410.

New York Tax Law (N.Y. Tax)

§ 606. Credits against tax.

(d) Earned income credit.

(1) General. A taxpayer shall be allowed a credit as provided herein equal to (i) the applicable percentage of the earned income credit allowed under section thirty-two of the internal revenue code for the same taxable year, (ii) reduced by the credit permitted under subsection (b) of this section. The applicable percentage shall be (i) seven and one-half percent for taxable years beginning in nineteen hundred ninety-four, (ii) ten percent for taxable years beginning in nineteen hundred ninety-five, (iii) twenty percent for taxable years beginning after nineteen hundred ninety-five and before two thousand, (iv) twenty-two and one-half percent for taxable years beginning in two thousand, (v) twenty-five percent for taxable years beginning in two thousand one, (vi) twenty-seven and one-half percent for taxable years beginning in two thousand two, and (vii) thirty percent for taxable years beginning in two thousand three and thereafter. Provided, however, that if the reversion event, as defined in this paragraph, occurs, the applicable percentage shall be twenty percent for taxable years ending on or after the date on which the reversion event occurred. The reversion event shall be deemed to have occurred on the date on which federal action, including but not limited to, administrative, statutory or regulatory changes, materially reduces or eliminates New York state's allocation of the federal temporary assistance for needy families block grant, or materially reduces the ability of the state to spend federal temporary assistance for needy families block grant funds for the earned income credit or to apply state general fund spending on the earned income credit toward the temporary assistance for needy families block grant maintenance of effort requirement, and the commissioner of the office of temporary and

disability assistance shall certify the date of such event to the commissioner of taxation and finance, the director of the division of the budget, the speaker of the assembly and the temporary president of the senate.

(2) Residents. In the case of a resident taxpayer, the credit under this subsection shall be allowed against the taxes imposed by this article for the taxable year reduced by the credits permitted by this article. If the credit exceeds the tax as so reduced, the taxpayer may receive, and the comptroller, subject to a certificate of the commissioner, shall pay as an overpayment, without interest, the amount of such excess.

(3) Nonresidents. In the case of a nonresident taxpayer, the credit under this subsection shall be allowed against the tax determined under subsections (a) through (d) of section six hundred one. The amount of the credit shall not exceed the tax determined under such subsections for the taxable year reduced by the credits permitted under subsections (b), (c) and (m) of this section.

(4) Part-year residents. In the case of a part-year resident taxpayer, the credit under this subsection shall be allowed against the tax determined under subsections (a) through (d) of section six hundred one reduced by the credits permitted under subsections (b), (c) and (m) of this section, and any excess credit after such application shall be allowed against the taxes imposed by sections six hundred two and six hundred three. Any remaining excess, after such application, shall be refunded as provided in paragraph two hereof, provided, however, that any overpayment under such paragraph shall be limited to the amount of the remaining excess multiplied by a fraction, the numerator of which is federal adjusted gross income for the period of residence, computed as if the taxable year for federal income tax purposes were limited to the period of residence, and the denominator of which is federal adjusted gross income for the taxable year.

(5) Husband and wife. In the case of a husband and wife who file a joint federal return but who are required to determine their New York taxes separately, the credit allowed pursuant to this subsection may be applied against the tax of either or divided between them as they may elect.

(6) Notification. The commissioner shall periodically, but not less than every three years, make efforts to alert taxpayers that may be currently eligible to receive the credit provided under this subsection, and the credit provided under any local law enacted pursuant to subsection (f) of section thirteen hundred ten of this chapter, as to their potential eligibility. In making the determination of whether a taxpayer may be eligible for such credit, the commissioner shall use such data as may be appropriate and available, including, but not limited to, data available from the United States Department of Treasury, Internal Revenue Service and New York state income tax returns for preceding tax years.

(7) Reports. The commissioner shall prepare a preliminary written report after July thirty-first and a final written report after December thirty-first of each calendar year, which shall contain statistical information regarding the credits granted on or before such dates under this subsection, and under any local law enacted pursuant to subsection (f) of section thirteen hundred ten of this chapter, during such calendar year. Copies of these reports shall be submitted by such commissioner to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee and the chairman of the assembly ways and means committee within sixty days of July thirty-first with respect to the preliminary report, and within forty-five days

of December thirty-first with respect to the final report, and copies of such reports with respect to credits under any local law enacted pursuant to subsection (f) of section thirteen hundred ten of this chapter shall be submitted in addition to the mayor and the speaker of the council of the city where such a local law is in effect. Such reports shall contain, but need not be limited to, the number of credits and the average amount of such credits allowed; and of those, the number of credits and the average amount of such credits allowed to taxpayers in each county; and of those, the number of credits and the average amount of such credits allowed to taxpayers whose earned income falls within ranges, determined by the commissioner, of not more than four thousand dollars; and of those, the number of credits and the average amount of such credits allowed to taxpayers who file under the different statuses set forth in subsections (a), (b) and (c) of section six hundred one of this part; and of those, the number of credits and the average amount of such credits allowed to taxpayers whose number of qualifying children falls within the categories set forth in such section thirty-two of the internal revenue code.

(d-1) Enhanced earned income tax credit.

(1) A taxpayer described in paragraph two of this subsection shall be allowed a credit equal to:

(A) twenty percent of the amount of the earned income tax credit that would have been allowed to the taxpayer under section 32 of the internal revenue code, absent the application of section 32(b)(2) of such code, if the child or children described in paragraph two of this subsection satisfied the requirements for a qualifying child set forth in section 32(c)(3) of such code, provided, however, that the credit shall be calculated as if the taxpayer had only one child; or

(B) the product of two and one-half and the amount of the earned income tax credit that would have been allowed to the taxpayer under section 32 of the internal revenue code, if the taxpayer satisfied the eligibility requirements set forth in section 32(c)(1)(A)(ii) of such code.

(2) To be allowed a credit under this subsection, a taxpayer must satisfy all of the following qualifications.

(A) The taxpayer must be a resident taxpayer.

(B) The taxpayer must have attained the age of eighteen.

(C) The taxpayer must be the parent of a minor child or children with whom the taxpayer does not reside.

(D) The taxpayer must have an order requiring him or her to make child support payments, which are payable through a support collection unit established pursuant to section one hundred eleven-h of the social services law, which order must have been in effect for at least one-half of the taxable year.

(E) The taxpayer must have paid an amount in child support in the taxable year at least equal to the amount of the current child support due during the taxable year for every order requiring him or her to make child support payments.

(3) If the amount of the credit allowed under this subsection shall exceed the taxpayer's tax for the year, the excess shall be treated as an overpayment to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(4) No claim for credit under this subsection shall be allowed unless the department has verified, from information provided by the office of temporary and disability assistance, that a taxpayer has satisfied the qualifications set forth in paragraphs (C), (D) and (E) of paragraph two of this subsection. The office of temporary and disability assistance shall provide to the department by January fifteenth of each year information applicable for the immediately preceding tax year necessary for the department to make such verification. Such information shall be provided in the manner and form agreed upon by the department and such office. If a taxpayer's claim for a credit under this section is disallowed because the taxpayer has not has satisfied the qualifications set forth in paragraphs (C), (D) and (E) of paragraph two of this subsection, the taxpayer may request a review of those qualifications by the support collection unit established pursuant to section one hundred eleven-h of the social services law through which the child support payments were payable. The support collection unit shall transmit the result of that review to the office of temporary and disability assistance on a form developed by such office. Such office shall then transmit such result to the department in a manner agreed upon by the department and such office.

(5) A taxpayer shall not be allowed multiple credits under this subsection for a taxable year even if such taxpayer has more than one child or has more than one order requiring him or her to make child support payments.

(6) If a credit is allowed under this subsection and the taxpayer is also allowed a credit under subsection (d) of this subsection, the taxpayer shall only be allowed to claim one credit.

(7) In the report prepared pursuant to paragraph seven of subsection (d) of this section, the commissioner shall include statistical information concerning the credit allowed pursuant to this subsection. Such information shall be limited to the number of credits and the average amount of such credits allowed; and of those, the number of credits and the average amount of such credits allowed to taxpayers in each county.

North Carolina General Statutes (N.C. Gen. Stat.)

§ 105-151.31. (Repealed for taxable years beginning on or after January 1, 2013) Earned income tax credit.[145]

(a) Credit. – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to five percent (5%) of the amount of credit the individual qualified for under section 32 of the Code. A nonresident or part-year resident who claims the credit allowed by this section must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate.

(b) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax

[145] Provisions not currently applicable are omitted.

imposed in this Part. Section 3507 of the Code, Advance Payment of Earned Income Credit, does not apply to the credit allowed by this section. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(c). Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2013.

Oklahoma Statutes (Okla. Stat.)

§ 68-2357.43. State earned income tax credit.

For tax years beginning after December 31, 2001, there shall be allowed to a resident individual or a part-year resident individual as a credit against the tax imposed by Section 2355 of this title five percent (5%) of the earned income tax credit allowed under Section 32 of the Internal Revenue Code of the United States, 26 U.S.C., Section 32. However, this credit shall not be paid in advance pursuant to the provisions of Section 3507 of the Internal Revenue Code. If the credit exceeds the tax imposed by Section 2355 of this title, the excess amount shall be refunded to the taxpayer. The maximum earned income tax credit allowable on the Oklahoma income tax return shall be prorated on the ratio that Oklahoma adjusted gross income bears to the federal adjusted gross income.

Oregon Revised Statutes (Ore. Rev. Stat.)

§ 315.266 Earned income; rules.

(1) In addition to any other credit available for purposes of ORS chapter 316, an eligible resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316 for the tax year in an amount equal to six percent of the earned income credit allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.

(2) An eligible nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by subsection (1) of this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(3) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(4) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(5) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

(6) The Department of Revenue may adopt rules for purposes of this section, including but not limited to rules relating to proof of eligibility and the furnishing of information regarding the federal earned income credit claimed by the taxpayer for the tax year.

(7) Refunds attributable to the earned income credit allowed under this section shall not bear interest.

Rhode Island General Laws (R.I. Gen Laws)

§ 44-30-2.6. Rhode Island taxable income—rate of tax.

* * *

(N) Rhode Island Earned Income Credit

(1) In general.

A taxpayer entitled to a federal earned income credit shall be allowed a Rhode Island earned income credit equal to twenty-five percent (25%) of the federal earned income credit. Such credit shall not exceed the amount of the Rhode Island income tax.

(2) Refundable portion.

In the event the Rhode Island earned income credit allowed under section (J) exceeds the amount of Rhode Island income tax, a refundable earned income credit shall be allowed.

(a) For purposes of paragraph (2) refundable earned income credit means fifteen percent (15%) of the amount by which the Rhode Island earned income credit exceeds the Rhode Island income tax.

Vermont Statutes (Vt. Stat.)

Title 32, § 5826b.

§ 5828b. Earned income tax credit.

(a) A resident individual or part-year resident individual who is entitled to an earned income tax credit granted under the laws of the United States shall be entitled to a credit against the tax imposed for each year by section 5822 of this title. The credit shall be 32 percent of the earned income tax credit granted to the individual under the laws of the United States, multiplied by the percentage which the individual's earned income that is earned or received during the period of the individual's residency in this state bears to the individual's total earned income.

(b) The tax credit claimed by a taxpayer under this section shall be deductible from the taxpayer's income tax liability, if any, for the year in which the income is earned. In the event the credit exceeds the amount of the income tax payments due from the taxpayer, the excess of credits over payments due shall be paid to the taxpayer. Any payments due to a taxpayer under this subsection shall not bear interest.

Virginia Code (Va. Code)

Title 58.1, § 339.8. Income tax credit for low-income taxpayers.

A. As used in this section, unless the context requires otherwise:
"Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an individual, the individual's spouse, and any person claimed as a dependent on the individual's or his spouse's income tax return for the taxable year.
"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the federal Register by the U.S. Department of Health and Human Services under the authority of § 673 (2) of the Omnibus Budget Reconciliation Act of 1981.
"Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a joint return whose family Virginia adjusted gross income does not exceed 100 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year, shall be allowed a credit against the tax levied pursuant to § 58.1-320 in an amount equal to $300 each for the individual, the individual's spouse, and any person claimed as a dependent on the individual's or married persons' income tax return for the taxable year. For any taxable year in which a husband and wife file separate Virginia income tax returns, the credit provided under this section shall be allowed against the tax for only one of such two tax returns. Additionally, the credit provided under this section shall not be allowed against such tax of a dependent of the individual or of married persons.
2. For taxable years beginning on and after January 1, 2006, any individual or married persons, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision B 1, claim a credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married persons for federal individual income taxes

pursuant to § 32 of the Internal Revenue Code for the taxable year. In no case shall a household be allowed a credit pursuant to this subdivision and subdivision B 1 for the same taxable year.
For purpose of this subdivision, "household" means an individual and in the case of married persons, the individual and his spouse regardless of whether or not the individual and his spouse file combined or separate Virginia individual income tax returns.

C. The amount of the credit provided pursuant to subsection B for any taxable year shall not exceed the individual's or married persons' Virginia income tax liability.

D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to subsection B in any taxable year in which the individual, the individual's spouse, or both, or any person claimed as a dependent on such individual's or married persons' income tax return, claims one or any combination of the following on his or their income tax return for such taxable year:
1. The subtraction under subdivision C 11 of § 58.1-322;
2. The subtraction under subdivision C 23 of § 58.1-322;
3. The subtraction under subdivision C 24 of § 58.1-322;
4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision D 2 b of § 58.1-322; or
5. The deduction under subdivision D 5 of § 58.1-322.

Washington Revised Code (Wash. Rev. Code)

§ 82.08.0206. Exemptions—Working families—Eligible low-income persons.

(1) A working families' tax exemption, in the form of a remittance tax due under this chapter and chapter 82.12 RCW, is provided to eligible low-income persons for sales taxes paid under this chapter after January 1, 2008.

(2) For purposes of the exemption in this section, an eligible low-income person is:

(a) An individual, or an individual and that individual's spouse if they file a federal joint income tax return;

(b) [An individual who] Who is eligible for, and is granted, the credit provided in Title 26 U.S.C. Sec. 32; and

(c) [An individual who] Who properly files a federal income tax return as a Washington resident, and has been a resident of the state of Washington more than one hundred eighty days of the year for which the exemption is claimed.

(3) For remittances made in 2009 and 2010, the working families' tax exemption for the prior year is a retail sales tax exemption equal to the greater of five percent of the credit granted as a result of Title 26 U.S.C. Sec. 32 in the most recent year for which data is available or twenty-five dollars. For 2011 and thereafter, the working families' tax

exemption for the prior year is equal to the greater of ten percent of the credit granted as a result of Title 26 U.S.C. Sec. 32 in the most recent year for which data is available or fifty dollars.

(4) For any fiscal period, the working families' tax exemption authorized under this section shall be approved by the legislature in the state omnibus appropriations act before persons may claim the exemption during the fiscal period.

(5) The working families' tax exemption shall be administered as provided in this subsection.

(a) An eligible low-income person claiming an exemption under this section must pay the tax imposed under chapters 82.08, 82.12, and 82.14 RCW in the year for which the exemption is claimed. The eligible low-income person may then apply to the department for the remittance as calculated under subsection (3) of this section.

(b) Application shall be made to the department in a form and manner determined by the department, but the department must provide alternative filing methods for applicants who do not have access to electronic filing.

(c) Application for the exemption remittance under this section must be made in the year following the year for which the federal return was filed, but in no case may any remittance be provided for any period before January 1, 2008. The department may use the best available data to process the exemption remittance. The department shall begin accepting applications October 1, 2009.

(d) The department shall review the application and determine eligibility for the working families' tax exemption based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through internal revenue service data.

(e) The department shall remit the exempted amounts to eligible low-income persons who submitted applications. Remittances may be made by electronic funds transfer or other means.

(f) The department may, in conjunction with other agencies or organizations, design and implement a public information campaign to inform potentially eligible persons of the existence of and requirements for this exemption.

(g) The department may contact persons who appear to be eligible low-income persons as a result of information received from the internal revenue service under such conditions and requirements as the internal revenue service may by law require.

(6) The provisions of chapter 82.32 RCW apply to the exemption in this section.

(7) The department may adopt rules necessary to implement this section.

(8) The department shall limit its costs for the exemption program to the initial start-up costs to implement the program. The state omnibus appropriations act shall specify funding to be used for the ongoing administrative costs of the program. These ongoing administrative costs include, but are not limited to, costs for: The processing of internet and mail applications, verification of application claims, compliance and

collections, additional full-time employees at the department's call center, processing warrants, updating printed materials and web information, media advertising, and support and maintenance of computer systems.

Wisconsin Statutes (Wis. Stat.)

§ 71.07(9e) Earned income tax credit.[146]

* * *

(af) For taxable years beginning after December 31, 1995, any natural person may credit against the tax imposed under s. 71.02 an amount equal to one of the following percentages of the federal basic earned income credit for which the person is eligible for the taxable year under section 32 (b) (1) (A) to (C) of the internal revenue code:

1. If the person has one qualifying child who has the same principal place of abode as the person, 4%.

2. If the person has 2 qualifying children who have the same principal place of abode as the person, 14%.

3. If the person has 3 or more qualifying children who have the same principal place of abode as the person, 43%.

* * *

(b) No credit may be allowed under this subsection to married persons, except married persons living apart who are treated as single under section 7703 (b) of the internal revenue code, if the husband and wife report their income on separate income tax returns for the taxable year.

(c) Part-year residents and nonresidents of this state are not eligible for the credit under this subsection.

(d) The department of revenue may enforce the credit under this subsection and may take any action, conduct any proceeding and proceed as it is authorized in respect to taxes under this chapter. The income tax provisions in this chapter relating to assessments, refunds, appeals, collection, interest and penalties apply to the credit under this subsection.

(e) No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

(f) Except as provided in s. 71.80 (3) and (3m), if the allowable amount of the claim under this subsection exceeds the taxes otherwise due under this chapter or no taxes are due under this chapter, the amount of the claim not used to offset taxes due shall be certified by the department of revenue to the department of administration for payment by check, share draft or other draft drawn from the appropriation under s. 20.835 (2) (f) or (kf).

[146] Provisions not currently applicable are omitted.

APPENDIX C
NON-EITC STATE TAX PROVISIONS

Arizona Revised Statutes (Ariz. Rev. Stat.)

43-1073. Family income tax credit.

A. Subject to the conditions prescribed by this section, a credit is allowed against the taxes imposed by this chapter for a taxable year for taxpayers whose Arizona adjusted gross income, plus the amount subtracted for exemptions under section 43-1023, is:
1. Twenty thousand dollars or less in the case of a married couple filing a joint return with no more than one dependent or a single person who is a head of a household with no more than one dependent.
2. Twenty-three thousand six hundred dollars or less in the case of a married couple filing a joint return with two dependents.
3. Twenty-seven thousand three hundred dollars or less in the case of a married couple filing a joint return with three dependents.
4. Thirty-one thousand dollars or less in the case of a married couple filing a joint return with four or more dependents.
5. Twenty thousand one hundred thirty-five dollars or less in the case of a single person who is a head of a household with two dependents.
6. Twenty-three thousand eight hundred dollars or less in the case of a single person who is a head of a household with three dependents.
7. Twenty-five thousand two hundred dollars or less in the case of a single person who is a head of a household with four dependents.
8. Twenty-six thousand five hundred seventy-five dollars or less in the case of a single person who is a head of a household with five or more dependents.
9. Ten thousand dollars or less in the case of a single person or a married person filing separately.
B. The amount of the credit is equal to forty dollars for each person who is a resident of this state and for whom a personal or dependent exemption is allowed with respect to the taxpayer pursuant to section 43-1043 and 43-1023, subsection B, paragraph 1, but not to exceed:
1. Two hundred forty dollars in the case of a married couple filing a joint return or a single person who is a head of a household.
2. One hundred twenty dollars in the case of a single person or a married couple filing separately.
3. For any taxpayer, the amount of taxes due under this chapter for the taxable year.

Arkansas Code (Ark. Code)

§ 26-51-301. Individuals exempt from taxation or qualifying for the low income tax credit.

(a) As used in this section:
(1) "Head of household" means the same as defined in 26 U.S.C. § 2(b) of the Internal Revenue Code of 1986, as in effect on January 1, 2007; and
(2) "Qualifying widow or widower" means the "surviving spouse" as defined in 26 U.S.C. § 2(a) of the Internal Revenue Code of 1986, as in effect on January 1, 2007.

(b) Beginning with tax year 2007, the following taxpayers are exempt from state individual income tax:
(1) A single individual whose gross income does not exceed ten thousand two hundred dollars ($10,200) for any income year;
(2) A married couple filing jointly with one (1) or fewer dependents whose gross income does not exceed seventeen thousand two hundred dollars ($17,200) for any income year;
(3) A married couple filing jointly with two (2) or more dependents whose gross income does not exceed twenty thousand seven hundred dollars ($20,700) for any income year; and
(4) A head of household or qualifying widow or widower with one (1) or more dependents whose gross income does not exceed fourteen thousand five hundred dollars ($14,500) for any income year.

(c) Beginning with tax year 2007, the following taxpayers are eligible for a low income tax credit:
(1) A single individual whose gross income for the taxable year is more than ten thousand two hundred dollars ($10,200) but less than thirteen thousand five hundred dollars ($13,500);
(2) A married couple filing jointly with one (1) or fewer dependents whose gross income for the taxable year is more than seventeen thousand two hundred dollars ($17,200) but less than twenty-one thousand four hundred dollars ($21,400);
(3) A married couple filing jointly with two (2) or more dependents whose gross income for the taxable year is more than twenty thousand seven hundred dollars ($20,700) but less than twenty-six thousand seven hundred dollars ($26,700); and
(4) A head of household or a qualifying widow or widower with one (1) or more dependents whose gross income for the taxable year is more than fourteen thousand five hundred dollars ($14,500) but less than nineteen thousand dollars ($19,000).

(d) For income tax year 2007, the low income tax credit in subsection (c) of this section shall be determined in accordance with the tables below, based upon the taxpayer's filing status:
[Tables omitted from source]

(e)(1) For tax years beginning on or after January 1, 2008, for purposes of determining the exemptions from income tax in subsection (b) of this section and determining eligibility for the low income tax credit in this section, the gross income amounts in subsections (b) and (c) of this section shall be adjusted annually by the cost-of-living adjustment for the current calendar year, rounded to the nearest whole dollar.
(2) For purposes of this subsection, the cost-of-living adjustment for any calendar year is the percentage, if any, not to exceed three percent (3%) by which the Consumer Price Index for the current calendar year exceeds the Consumer Price Index for the preceding calendar year.
(3) The Consumer Price Index for any calendar year is the average of the Consumer Price Index as of the close of the twelve-month period ending on August 31 of that calendar year.
(4) As used in this subsection, "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the United States Department of Labor.

(f) For tax years beginning on or after January 1, 2008, following the cost-of-living adjustment for the Consumer Price Index as provided in subsection (e) of this section, the low income tax credit in this section and the gross income limitations outlined in the tables in subsection (d) of this section shall be adjusted annually using the following method:
(1) For a single individual, the amount of the low income tax credit allowable shall be eighty percent (80%) of the income tax due upon the amount of gross income in subdivision (c)(1) of this section, indexed as provided in subsection (e) of this section, and reduced, but not below zero dollars ($0.00), by four dollars ($4.00) for each one hundred dollars ($100), or fraction thereof, that the taxpayer's gross income exceeds the indexed amount;
(2) For a married couple filing jointly with one (1) or fewer dependents, the amount of the low income tax credit allowable shall be eighty percent (80%) of the income tax due upon the amount of gross income in subdivision (c)(2) of this section, indexed as provided in subsection (e) of this section, and reduced, but not below zero dollars ($0.00), by seven dollars ($7.00) for each one hundred dollars ($100), or fraction thereof, that the taxpayer's gross income exceeds the indexed amount;
(3) For a married couple filing jointly with two (2) or more dependents, the amount of the low income tax credit allowable shall be eighty percent (80%) of the income tax due upon the amount of gross income in subdivision (c)(3) of this section, indexed as provided in subsection (e) of this section, and reduced, but not below zero dollars ($0.00), by seven dollars ($7.00) for each one hundred dollars ($100), or fraction thereof, that the taxpayer's gross income exceeds the indexed amount; or
(4) For a head of household or qualifying widow or widower with one (1) or more dependents, the amount of the low income tax credit allowable shall be eighty percent (80%) of the income tax due upon the amount of gross income in subdivision (c)(4) of this section, indexed as provided in subsection (e) of this section, reduced, but not below zero dollars ($0.00), by six dollars ($6.00) for each one hundred dollars ($100), or fraction thereof, that the taxpayer's gross income exceeds the indexed amount.

(g) For the purpose of determining eligibility for the low income tax credit in this section, income from all sources shall be used in determining the gross income of the taxpayer regardless of whether the income is taxable in Arkansas.

(h) A taxpayer is not eligible for the low income tax credit in this section if the taxpayer claims an exemption in § 26-51-306 or § 26-51-307, or if the taxpayer itemizes deductions.

Hawaii Revised Statutes (Haw. Rev. Stat.)

§ 235-55.85 Refundable food/excise tax credit.

(a) Each resident individual taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, may claim a refundable food/excise tax credit against the resident taxpayer's individual income tax liability for the taxable year for which the individual income tax return is being filed; provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Hawaii state individual income tax purposes may claim this credit.

(b) Each resident individual taxpayer may claim a refundable food/excise tax credit multiplied by the number of qualified exemptions to which the taxpayer is entitled in accordance with the table below; provided that a husband and wife filing separate tax returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled had a joint return been filed.

Adjusted gross income	Credit per exemption
Under $5,000	$85
$5,000 under $10,000	75
$10,000 under $15,000	65
$15,000 under $20,000	55
$20,000 under $30,000	45
$30,000 under $40,000	35
$40,000 under $50,000	25
$50,000 and over	0

(c) For the purposes of this section, a qualified exemption is defined to include those exemptions permitted under this chapter; provided that no additional exemption may be claimed by a taxpayer who is sixty-five years of age or older; provided that a person for whom exemption is claimed has physically resided in the state for more than nine months during the taxable year; and provided further that multiple exemptions shall not be granted because of deficiencies in vision or hearing, or other disability. For purposes of claiming this credit only, a minor child receiving support from the department of human services of the state, social security survivor's benefits, and the like, may be considered a dependent and a qualified exemption of the parent or guardian.

(d) The tax credit under this section shall not be available to:

(1) Any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year;

(2) Any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or

(3) Any misdemeanant who has been committed to jail and has been physically confined for the full taxable year.

(e) The tax credits claimed by a resident taxpayer pursuant to this section shall be deductible from the resident taxpayer's individual income tax liability, if any, for the tax year in which they are properly claimed. If the tax credits claimed by a resident taxpayer exceed the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer; provided that tax credits properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual; and provided further that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than $1.

(f) All claims for tax credits under this section, including any amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(g) For the purposes of this section, "adjusted gross income" means adjusted gross income as defined by the Internal Revenue Code.

Idaho Code

§ 63-3086. Persons exempt from tax.

This act shall not apply to any person who on the last day of his taxable year is blind or lawfully receiving public assistance from the state under title 56, Idaho Code.

New Mexico Statutes (N.M. Stat.)

§ 7-2-5.8. Exemption for low- and middle income taxpayers.

A. An individual may claim an exemption in an amount specified in Subsections B through D of this section not to exceed an amount equal to the number of federal exemptions multiplied by two thousand five hundred dollars ($2,500) of income includable, except for this exemption, in net income.

B. For a married individual filing a separate return with adjusted gross income up to twenty-seven thousand five hundred dollars ($27,500):

(1) if the adjusted gross income is not over fifteen thousand dollars ($15,000), the amount of the exemption pursuant to this section shall be two thousand five hundred dollars ($2,500) for each federal exemption; and

(2) if the adjusted gross income is over fifteen thousand dollars ($15,000) but not over twenty-seven thousand five hundred dollars ($27,500), the amount of the exemption pursuant to this section for each federal exemption shall be calculated as follows:

(a) two thousand five hundred dollars ($2,500); less

(b) twenty percent of the amount obtained by subtracting fifteen thousand dollars ($15,000) from the adjusted gross income.

C. For single individuals with adjusted gross income up to thirty-six thousand six hundred sixty-seven dollars ($36,667):

(1) if the adjusted gross income is not over twenty thousand dollars ($20,000), the amount of the exemption pursuant to this section shall be two thousand five hundred dollars ($2,500) for each federal exemption; and

(2) if the adjusted gross income is over twenty thousand dollars ($20,000) but not over thirty-six thousand six hundred sixty-seven dollars ($36,667), the amount of the exemption pursuant to this section for each federal exemption shall be calculated as follows:

(a) two thousand five hundred dollars ($2,500); less

(b) fifteen percent of the amount obtained by subtracting twenty thousand dollars ($20,000) from the adjusted gross income.

D. For married individuals filing joint returns, surviving spouses or for heads of households with adjusted gross income up to fifty-five thousand dollars ($55,000):

(1) if the adjusted gross income is not over thirty thousand dollars ($30,000), the amount of the exemption pursuant to this section shall be two thousand five hundred dollars ($2,500) for each federal exemption; and

(2) if the adjusted gross income is over thirty thousand dollars ($30,000) but not over fifty-five thousand dollars ($55,000), the amount of the exemption pursuant to this section for each federal exemption shall be calculated as follows:

(a) two thousand five hundred dollars ($2,500); less

(b) ten percent of the amount obtained by subtracting thirty thousand dollars ($30,000) from the adjusted gross income.

Code of Virginia

§ 58.1-321. Exemptions and exclusions.

A. No tax levied pursuant to § 58.1-320 is imposed, nor any return required to be filed by:

1. A single individual where the Virginia adjusted gross income for such taxable year is less than $5,000 for taxable years beginning on and after January 1, 1987, but before January 1, 2004.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than $5,000 for taxable years beginning on and after January 1, 2004, but before January 1, 2005.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than $7,000 for taxable years beginning on and after January 1, 2005, but before January 1, 2008.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than $11,250 for taxable years beginning on and after January 1, 2008, but before January 1, 2010.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than $11,650 for taxable years beginning on and after January 1, 2010, but before January 1, 2012.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than $11,950 for taxable years beginning on and after January 1, 2012.

2. An individual and spouse if their combined Virginia adjusted gross income for such taxable year is less than $8,000 for taxable years beginning on and after January 1, 1987, (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2004.

An individual and spouse if their combined Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 is less than $8,000 for taxable years beginning on and after January 1, 2004, (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2005; less than $14,000 for taxable years beginning on and after January 1, 2005, (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2008; less than $22,500 for taxable years beginning on and after January 1, 2008, (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2010; less than $23,300 for taxable years beginning on and after January 1, 2010, (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2012; and less than $23,900 for taxable years beginning on and after January 1, 2012, (or one-half of such amount in the case of a married individual filing a separate return).

For the purposes of this section "Virginia adjusted gross income" means federal adjusted gross income for the taxable years with the modifications specified in § 58.1-322 B, § 58.1-322 C and the additional deductions allowed under § 58.1-322 D 2 b and D 5 for taxable years beginning before January 1, 2004. For taxable years beginning on and after January 1, 2004, Virginia adjusted gross income means federal adjusted gross income with the modifications specified in subsections B and C of § 58.1-322.