



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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The Honorable John Carney
Governor

John McNeal
SCPD Director

MEMORANDUM

DATE: May 28, 2020

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Mr. J. Todd Webb, Chairperson *JTW*
State Council for Persons with Disabilities

RE: H.B. 316 & HS1 for H.B. 80 (Low Income and Earned Income Tax Credits)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 316 & HS 1 for HB 80. SCPD has the following observations and recommendations.

HS 1 for H.B. 80 creates a refundable Delaware state earned income tax credit (EITC). Currently, individuals can access a non-refundable tax credit of 20% of their federal EITC. (30 Del Code §§1117) Many states offer a state EITC as a refundable credit, meaning that the EITC can lead to a tax refund. HS1 for HB 80 gives taxpayers the option of either taking 4.5% of their federal EITC as a refundable credit or of taking 20% of federal EITC as a non-refundable credit. Maryland offers taxpayers the option of choosing either a smaller refundable credit or a larger non-refundable credit. The effective date of the change is linked to notification by the Secretary of Finance of the “personal income tax release of the Integrated Revenue Administration System.:

There is a strong argument that a refundable tax credit has the potential to put more income into the hands for low income workers.¹ Many low income families don't owe state income tax, and a non-refundable credit is of little value to them.²

¹<https://www.cbpp.org/research/state-budget-and-tax/states-can-adopt-or-expand-earned-income-tax-credits-to-build-a>

² “Refundability is key to the EITC’s success, especially at the state level. If a credit is refundable, taxpayers receive a refund for the portion of the credit that exceeds their income tax bill. Refundable credits therefore can be used to help offset all taxes

HB 316, Delaware Resident Low Income Tax Credit, seeks to amend Chapter 11, Subchapter II of Title 30 of the Delaware Code relating to Personal Income Tax Credits for Delaware residents by adding § 1119, which creates a personal income tax credit for certain low income Delaware residents. The §1119 personal income tax credit would apply to residents who have claimed income between \$18,000 and \$30,000 and would allow for a credit in the amount of \$250 against the tax imposed under Chapter 11 of Title 30. For Delaware resident spouses filing jointly, their claimed income must be between \$36,000 and \$60,000 and are allowed a credit in the amount of \$500.

If Delaware resident spouses file a federal joint tax return, but file separately in Delaware, the rules for a single Delaware resident apply to this tax credit; however, each spouse will only be eligible for the tax credit if he or she meets the income requirements. For example: if Spouse 1 claims more than \$30,000 in income and Spouse 2 claims between \$18,000 and \$30,000, only Spouse 2 is eligible for the tax credit and will receive \$250. However, if both Spouse 1 and Spouse 2 claim between \$18,000 and \$30,000 in income, both spouses would be eligible for the \$250 tax credit, for a total of \$500.

Although it is clear that this bill is aimed at easing the tax burden for low-income residents, SCPD believes it will not provide the assistance imagined. Instead, it will likely provide only a minimum level of assistance. While the bill is a step in the right direction, Council urges the Legislature to consider alternative proposals that will likely make a greater impact and provide even more assistance to Delawareans who need it the most which includes many persons with disabilities.

The Institute on Taxation and Economic Policy (ITEP) published a report identifying state tax codes that actually help fight poverty with recommendations to consider. [<https://itep.org/state-tax-codes-as-poverty-fighting-tools/>]. They identify four effective strategies including the state EITC which Delaware has already enacted, property tax circuit breakers, targeted low-income credits (which this bill aims to enact), and child-related tax credits. Regarding the EITC, ITEP notes that states vary wildly in their credits allowed under EITC. The report notes that Delaware is only one of six states which allow only a non-refundable EITC credit, which limits the ability of the credit to “offset regressive state and local taxes.”

What HB 316 represents is a targeted low-income credit, which complements EITCs. ITEP notes that there are several states whose targeted low-income tax credit essentially “zeroes out” families’ personal income tax contributions. [<https://itep.org/state-tax-codes-as-poverty-fighting-tools/>]. In Ohio, the enacted legislation ensures that families with an income below \$10,000 are not subject to the income tax. In Kentucky, low-income families of a certain size are not subject to state income taxes. In other states, low-income families are offered income tax credits to offset sales and excise taxes. While the former would not be applicable because Delaware does not have sales tax, the latter is applicable. Excise taxes are taxes directly levied on certain goods by the state or federal government and are generally passed to the consumers via higher prices. Delaware collects excise taxes on gasoline, cigarettes, and alcoholic beverages. In Idaho, each resident receives a credit to offset their grocery taxes, even if they are not subject to the income tax.

paid, not just income taxes, thereby offsetting some of the regressive effects of state and local sales, excise, and property taxes.” [<https://itep.org/rewarding-work-through-state-earned-income-tax-credits-in-2018/>]

As stated previously, this bill represents a step in the right direction for providing assistance to low-income Delawareans; however, this reviewer does not believe it goes far enough nor will it accomplish the level of assistance contemplated or needed. Instead, the Delaware legislature should consider enacting legislation that will provide the greatest impact.

The SCPD endorses both of these bills since they would assist persons with disabilities and believes that one bill should not be passed in lieu of the other (e.g. HB 316 should not supplant HS 1 for HB 80). In addition, SCPD recommends increasing the amount of the credit to at least \$500 and encourages the General Assembly to consider other proposals to make more substantial changes.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position, recommendations or observations on the proposed legislation.

cc: Ms. Laura Waterland, Esq.
Delaware Commission on Veterans Affairs
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

hb 316 & hs 1 for hb. 80 low income and earned income tax credits 5-28-20