

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 552

(The President, *et al.*) (By Request - Administration)

Budget and Taxation

Ways and Means

Family Prosperity Act of 2023

This Administration bill permanently extends the temporary expansions to the Maryland earned income credit that were enacted under Chapters 39 and 40 of 2021 and further eliminates an existing limit on the value of the State refundable earned income credit for individuals without qualifying children. In addition, the bill permanently extends and alters eligibility for the State child tax credit originally enacted under Chapter 40. **The bill takes effect June 1, 2023, and applies to tax year 2023 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by \$172.3 million in FY 2024, as discussed below. Future years reflect projected growth in credits claimed against the State income tax. The FY 2024 general fund revenue reduction is assumed in the FY 2024 budget. General fund expenditures increase by \$37,000 in FY 2024, as discussed below. Future years reflect annualization and ongoing costs.

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	(\$172.30)	(\$175.74)	(\$179.26)	(\$182.85)	(\$186.50)
GF Expenditure	\$0.04	\$0.06	\$0.06	\$0.06	\$0.07
Net Effect	(\$172.34)	(\$175.80)	(\$179.32)	(\$182.91)	(\$186.57)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local income tax revenues decrease by an estimated \$6.1 million in FY 2024 and similar amounts annually thereafter, as discussed below. Montgomery County expenditures for its earned income credit supplement program may increase beginning in FY 2024, as discussed below.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law/Bill Summary:

Maryland Earned Income Credit

Maryland's earned income credit offers both refundable and nonrefundable credits against the State income tax and a nonrefundable credit against the local income tax for low- to moderate-income resident taxpayers. The State nonrefundable credit, which was first enacted in 1987, is generally equal to 50% of the amount of an eligible taxpayer's federal earned income credit for the taxable year. A taxpayer for whom the State nonrefundable credit is less than the taxpayer's State income tax liability may also be eligible to claim the State and local poverty level credits.

The State refundable earned income credit, which was first enacted under Chapter 5 of 1998 and has been expanded several times by subsequent legislation, is available to eligible taxpayers for whom a specified percentage of the federal earned income credit exceeds the taxpayer's State income tax liability. For tax years after tax year 2017 and prior to tax year 2020, the value of the State refundable credit was 28% of the amount of the taxpayer's federal earned income credit, minus any pre-credit State income tax liability.

The local earned income credit is generally equal to the amount of the taxpayer's federal earned income credit multiplied by 10 times the county income tax rate for the taxable year, not to exceed the taxpayer's county income tax liability.

Maryland's earned income credit has historically conformed to eligibility standards for the federal earned income credit. Chapters 611 and 612 of 2018 allowed individuals without qualifying children to claim the State and local earned income credits without regard to the federal minimum age requirement for childless claimants.

Legislation enacted during the 2021 session temporarily expanded Maryland's earned income credit for tax years 2020 through 2022. Specifically:

- Chapter 39 (1) increased the value of the State refundable credit from 28% to 45% of the amount of a claimant's federal earned income credit, minus any pre-credit State income tax liability; and (2) for an individual without a qualifying child, increased

the value of the State refundable credit to 100% of the individual's federal earned income credit, up to a maximum of \$530; and

- Chapter 40 expanded eligibility for Maryland's earned income credit to taxpayers who would be eligible for the federal earned income credit but for specified identification requirements (which require that federal earned income credit claimants and their qualifying children possess a valid Social Security number).

Under the bill, the temporary expansions enacted under Chapters 39 and 40 are made permanent. Further, the \$530 limit on the value of the State refundable credit for individuals without qualifying children is eliminated. Thus, in tax year 2023 and beyond:

- the maximum value of the State refundable credit remains at 45% of the federal earned income credit;
- eligible individuals without qualifying children may claim a State refundable credit equal to 100% of the amount of the federal earned income credit (minus any pre-credit State income tax liability), without limitation; and
- eligible taxpayers may continue to claim the State and local earned income credits without regard to federal identification requirements.

Maryland Child Tax Credit

In addition to expanding eligibility for the Maryland earned income credit, Chapter 40 established, for tax years 2020 through 2022 only, a refundable credit against the State income tax for low-income taxpayers with qualifying children (child tax credit). For purposes of the credit, a qualified child is a dependent under § 152 of the Internal Revenue Code (IRC) who is younger than age 17 and has a disability, as defined under § 8-401 of the Education Article. Taxpayers with federal adjusted gross income of \$6,000 or less may claim a credit equal to \$500 for each qualified child, minus the amount of any federal child tax credit claimed with respect to the qualified child.

Under the bill, the child tax credit is permanently extended beyond tax year 2022, with additional alterations. Specifically, the bill:

- expands eligibility to taxpayers with federal adjusted gross income of up to \$15,000, and limits eligibility to residents of the State;
- expands the definition of a "qualified child" for purposes of the credit to include qualified dependents younger than age six, regardless of disability status; and
- eliminates the requirement that the amount of the credit be reduced by the amount of any federal child tax credit claimed.

Background:

Federal Earned Income Tax Credit

Low- to moderate-income workers who have earned income may be eligible to claim the federal earned income credit, a refundable income tax credit equal to a specified percentage of earned income up to a maximum dollar amount. For tax year 2022, a taxpayer may be eligible for the credit if the taxpayer's investment income does not exceed \$10,300 and federal adjusted gross income does not exceed:

- \$16,480 (\$22,610 if filing jointly), with no qualifying children;
- \$43,492 (\$49,622 if filing jointly), with one qualifying child;
- \$49,399 (\$55,529 if filing jointly), with two qualifying children; or
- \$53,057 (\$59,187 if filing jointly), with three or more qualifying children.

For tax year 2021 only, the American Rescue Plan Act of 2021 (ARPA) enhanced the value of the earned income credit for childless claimants and lowered the minimum age for childless claimants from age 25 to age 19 (age 24 for specified students and age 18 for qualified former foster youth or qualified homeless youth). In addition, the Act permanently allowed taxpayers to claim the childless credit if they are otherwise ineligible to claim the credit for filers with qualifying children due to the applicable identification requirements.

Federal Child Tax Credit

Taxpayers with qualifying children may be eligible to claim the federal child tax credit. The credit is generally nonrefundable; however, a specified portion of the credit may be refundable (additional child tax credit). In general, a qualifying child for purposes of the child tax credit is a qualifying child as defined under § 152 of the IRC who is younger than age 17. In tax years prior to tax year 2018 and after tax year 2025, the maximum value of the credit is \$1,000 per qualifying child; the value of the credit is reduced by \$50 for each \$1,000 (or fraction thereof) of modified adjusted gross income exceeding \$75,000 (\$110,000 in the case of joint filers and \$55,000 in the case of married individuals filing separately).

For tax years 2018 through 2025, the Tax Cuts and Jobs Act of 2017 doubled the maximum value of the credit to \$2,000, and increased the maximum value of the additional child tax credit; increased the income threshold after which the credit begins to phase out to \$200,000 (\$400,000 in the case of joint filers); and authorized a partial credit for other dependents. The Act also required, for tax years 2018 through 2025, that a taxpayer provide a valid Social Security number for a qualifying child for which the child tax credit is claimed.

ARPA subsequently altered the credit for tax year 2021 only; specifically, the Act:

- further increased the value of the credit to \$3,000 (\$3,600 in the case of a qualifying child younger than age 6). The increase in the credit amount began to phase out for taxpayers with modified adjusted gross income exceeding \$75,000 (\$150,000 in the case of joint filers and \$112,500 in the case of heads of household);
- made the credit fully refundable for certain eligible taxpayers;
- expanded the definition of qualifying children to include 17 year olds; and
- provided for certain advance payments for eligible taxpayers during the second half of 2021.

State/Local Revenues: As discussed above, the bill (1) permanently extends and expands upon temporary enhancements to Maryland’s earned income credit and (2) permanently extends and alters eligibility for the State child tax credit. **Exhibit 1** shows the bill’s effect on State and local revenues in fiscal 2024 through 2028. As shown in the exhibit, State general fund revenues decrease by an estimated \$172.3 million in fiscal 2024, and local income tax revenues decrease by an estimated \$6.1 million in fiscal 2024. Future years reflect projected growth in credits claimed against the State and local income tax. As noted above, the estimated fiscal 2024 general fund revenue reduction is assumed in the fiscal 2024 budget.

Exhibit 1
Effect on State and Local Revenues
Fiscal 2024-2028
(\$ in Millions)

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>
State Effect					
Earned Income Credit	(\$154.4)	(\$157.4)	(\$160.6)	(\$163.8)	(\$167.1)
Child Tax Credit	(17.9)	(18.3)	(18.7)	(19.0)	(19.4)
Total	(\$172.3)	(\$175.7)	(\$179.3)	(\$182.8)	(\$186.5)
Local Effect					
Earned Income Credit	(\$6.1)	(\$6.2)	(\$6.3)	(\$6.5)	(\$6.6)
Total Effect	(\$178.4)	(\$181.9)	(\$185.6)	(\$189.3)	(\$193.1)

Source: Department of Legislative Services

State Expenditures: As discussed above, the bill permanently extends and alters eligibility for the State child tax credit. The Comptroller’s Office advises that, currently, taxpayers claiming the child tax credit with respect to a qualifying child with a disability must submit with their return a copy of the required certification from a qualified physician stating the nature of the disability. Due to an anticipated increase in child tax credit claims under the bill, the Comptroller’s Office requires an additional revenue examiner to assist in processing and validating the additional claims.

Thus, general fund expenditures for the Comptroller’s Office increase by \$36,533 in fiscal 2024, which reflects a seven-month start-up delay from the bill’s June 1, 2023 effective date. This estimate reflects the cost of hiring one full-time revenue examiner to process and validate additional tax credit claims. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$29,389
Other Operating Expenses	<u>7,144</u>
Total FY 2024 State Expenditures	\$36,533

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Local Expenditures: Montgomery County expenditures for the Working Families Income Supplement Program, which provides a match to county residents based on the amount of the State earned income credit, may increase beginning in fiscal 2024.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 547 (The Speaker, *et al.*) (By Request - Administration) - Ways and Means.

Information Source(s): Comptroller’s Office; Internal Revenue Service; U.S. Census Bureau; Congressional Research Service; CCH AnswerConnect; Department of Legislative Services

Fiscal Note History:
km/jrb

First Reader - February 16, 2023

Third Reader - March 22, 2023

Revised - Amendment(s) - March 22, 2023

Revised - Budget Information - April 25, 2023

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Prosperity Act of 2023

BILL NUMBER: SB 552/HB 547

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS