HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 97 Residents/Payments/Federal Tax Credits
SPONSOR(S): Gottlieb
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Workforce and Economic Development (Sub)		Winker	Whitfield
2) Commerce			
3) Finance and Tax			
4) Commerce and Local Affairs Appropriations			
5) Appropriations			

SUMMARY ANALYSIS

HB 97 establishes a program in the Department of Revenue whereby a Florida resident will receive a payment from the department of 10% of his or her federal Earned Income Tax Credit (EITC) for tax year 2002 and every year thereafter. The bill authorizes the department to adopt procedures by rule to identify eligible persons and distribute the payments. The bill provides that an amount of funds up to, but not exceeding, the total amount of payments, shall be transferred from the Temporary Assistance to Needy Families (TANF) program to cover the payments for the state EITC program. If the total amounts of payments for the program exceed the amount transferred from the TANF program, the balance will be paid from the General Revenue Fund.

The bill has a significant fiscal impact in terms of administrative costs ($25.4 million) and an indeterminate, but significant, cost for covering the payments to eligible persons.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[X]	N/A[]
2. Lower taxes?	Yes[]	No[]	N/A[X]
3. Expand individual freedom?	Yes[]	No[]	N/A[X]
4. Increase personal responsibility?	Yes[]	No[]	N/A[X]
5. Empower families?	Yes[X]	No[]	N/A[]

For any principle that received a "no" above, please explain:

HB 97 creates a new program in the Department of Revenue requiring the expenditure of significant funds to administer the program and to make payments to eligible persons.

B. EFFECT OF PROPOSED CHANGES:

HB 97 establishes a program in the Department of Revenue whereby a Florida resident will receive a payment from the department of 10% of his or her federal Earned Income Tax Credit (EITC) for tax year 2002 and every year thereafter. The bill authorizes the department to adopt procedures by rule to identify eligible persons and distribute the payments.

The bill provides that an amount of funds up to, but not exceeding, the total amount of payments, shall be transferred from the Temporary Assistance to Needy Families (TANF) block grant program to cover the payments for the state EITC program. If the total amounts of payments for the program exceed the amount transferred from the TANF program, the balance will be paid from the General Revenue Fund.

Present Situation

Currently, Florida has no wage supplement program utilizing or affiliated with the federal Earned Income Tax Credit program.

Overview of the Federal Earned Income Tax Credit Program

The Earned Income Tax Credit (EITC), sometimes called the Earned Income Credit (EIC), is a refundable Federal income tax credit for low-income working individuals and families. Congress originally approved the tax credit legislation in 1975, in part to offset the burden of social security taxes and to provide an incentive to work. The credit reduces the amount of Federal tax owed and can result in a refund check. When the EITC exceeds the amount of taxes owed, it results in a tax refund to those who claim and qualify for the credit.

Income and family size determine the amount of the EITC. To qualify for the credit, both the earned income and the adjusted gross income for 2002 must be less than $29,201 for a taxpayer with one qualifying child ($30,201 for married filing jointly), $33,178 for a taxpayer with more than one qualifying child ($34,178 for married filing jointly), and $11,060 for a taxpayer with no qualifying children ($12,060 for married filing jointly.

For 2003, some employees with at least one child living with them may be entitled to receive advance EITC payments in their paychecks. The employee must file Form W-5, Earned Income Credit Advance Payment Certificate, with an employer to receive the advance payments. The employer then pays part of the credit to the employee in advance throughout the year. The taxpayer claims the rest when filing the 2003 federal tax return.

The EITC does not generally affect eligibility for Medicaid, Supplemental Security Income (SSI), food stamps, or low-income housing.

According to the Washington, D.C. based Center on Budget and Policy Priorities [www.cbpp.org], sixteen states and the District of Columbia offer state Earned Income Tax Credits based on the federal credit. In addition, two local governments offer local earned income tax credits. These states use federal eligibility rules for the earned income tax credit and express the state credit as a specified percentage (from 5% to 50%) of the federal credit. Twelve of the states follow the federal practice of making the credit refundable and allows a family to receive the full amount of the credit even if the credit amount is greater than the family's income tax liability. Five states offer non-refundable credits which limits the amount of credit to a family's income tax liability.

According to the Center and Budget Policy Priorities (CBPP) , the following states (and the percentage of the federal credit) offer refundable credits; Colorado (10%), District of Columbia (25%), Indiana (6%), Kansas (15%), Maryland (15%), Massachusetts (15%), Minnesota (33% avg.), New Jersey (20%), New York (30%), Oklahoma (5%), Vermont (32%), and Wisconsin (43% - three children, 14% - two children, and 4% - one child).

According to a Florida Department of Revenue (DOR) estimate and based on data from the Internal Revenue Service and the CBPP, there will be about 1,400,000 families who claim the federal earned tax credit in the 2002 tax year. DOR estimates that recipients of the federal earned income tax credit receive credits in an amount ranging from $4 to $3,907. Thus, state earned income tax credit payments based on 10% as specified in HB 97 will result in payments ranging from $0.40 to $390.70 per recipient.

Temporary Assistance for Needy Families Block Grant

The Temporary Assistance for Needy Families (TANF) Program in Florida is carried out through four state agencies, a state-level policy board, Workforce Florida, Inc. (WFI), and a network of Regional Workforce Boards (RWB). These agencies are; the Department of Children and Families (DCF), the Agency for Workforce Innovation (AWI), the Department of Health (DOH), and the Department of Military Affairs (DMA).

The following describes how these entities work together to deliver programs designed to assist TANF recipients make the transition from welfare to self-sufficiency.

Eligibility Determination, Cash Assistance Payment, and Non-recurrent Short-term Benefit Programs: The Department of Children and Families is the recipient of the TANF block grant, and is responsible for determining the eligibility for TANF cash assistance and for some non-assistance related services. In addition to determining program eligibility, DCF directly contracts with other public and private organizations to provide most of the TANF service-related (non-assistance) programs. Finally, DCF is the state agency responsible for the payment of cash assistance to TANF eligible families.

Programs Related to the Prevention of Out of Wedlock Pregnancies and Other Health Issues: The Governor has designated the Florida Department of Health to serve as the recipient of TANF funds for initiatives related to health, especially several statewide efforts directed toward pregnancy prevention among youth.

Programs Related to Welfare Transition and Employment-Related Services: The Workforce Innovation Act of 2000 consolidated several workforce programs (TANF, WIA, Wagner-Peyser) into a single point of accountability with the creation of Workforce Florida, Inc., as the state's workforce policy organization. The non-profit public/private partnership provides policy and oversight to Florida's 24 Regional Workforce Boards and the Agency for Workforce Innovation, which replaced the Department of Labor as the designated state agency for administering workforce programs, funding, and personnel.

The Workforce Innovation Act of 2000 also required the creation of three councils, at both the state and regional levels, to develop targeted workforce strategies:

- **First Jobs/First Wages Council** is charged with preparing students and first-time workers, including teen parents on welfare, for jobs.
- **Better Jobs/Better Wages Council** is responsible for assisting families transitioning from welfare, former welfare recipients working at low-wage jobs with limited mobility, and the larger population of underemployed adult workers.
- **High Skill/High Wages Council** directs initiatives that align education and training programs with high paying, high demand jobs to advance careers, build a more skilled workforce, and enhance the state's efforts to attract and expand job-creating businesses.

The Agency for Workforce Innovation translates state policy into action, contracts for services with regional workforce boards, and is the state agency responsible for ensuring that workforce funds and programs are appropriately administered.

C. SECTION DIRECTORY:

SECTION 1: Creates an un-numbered section of statutes requiring the Department of Revenue to pay Florida residents who qualify for the federal earned income tax credit an amount equal to 10 percent of the credit for tax year 2002 and each year thereafter; requires the transfer of funds from the federal Temporary Assistance for Needy Families program to the Department of Revenue to fund the state earned income tax credit program or if such funds or are insufficient are unavailable, then General Revenue funds are to be used; and requires the Department of Revenue to establish procedures by rule for implementing the state earned income tax credit program.

SECTION 2: The bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The Department of Revenue estimates that for FY 2003-04, it would cost $2,551,767 in recurring expenses and $400,768 in non-recurring expenses for a total annual cost of $2,952,535 which include expenses for 44 FTE positions to administer the state earned income tax credit program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

As of the date of this analysis, this bill has not been heard by the Revenue Estimating Conference.

Based on data from the Center on Budget and Policy Priorities and the Department of Revenues' analysis of Internal Revenue Service information the Department of Revenue (DOR) estimates that about 1,400,000 Florida families claiming the federal earned income tax credit in the 2002 tax year will be eligible for the state earned income tax credit payment as provided in HB 97.

DOR reports that the federal earned income tax credit ranges from $4 to $3,907 which would result in payments under HB 97 ranging from $.40 to $390.70 per recipient. Assuming an average payment of $195.35 for each of 1,400,000 recipients, the annual amount of payment would be $25,395,500. This amount would need to come from any available TANF block grant monies, from General Revenue or a combination of both.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The legislation does not require the expenditure of funds by local governments, does not reduce the authority to raise revenue, nor reduces the percentage of state tax shared with local governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill requires the Department of Revenue to promulgate rules for the proposed state earned income tax credit program [see comments below].

C. DRAFTING ISSUES OR OTHER COMMENTS:

In order to implement the provisions of HB 97, DOR reports Floridians claiming the federal earned income tax credit in 2003 would need to send copies of their 2002 tax return to DOR for processing. DOR reports that there are federal confidentiality requirements for tax information which would need to be extended to the state entity that would be processing the payment checks.

The bill requires that 2002 payments be made by December 31, 2003. DOR would need to promulgate rulers for the program prior to the disbursement of the payments. Among these rules would include procedures for collecting payments made in error, such as when the recipient files a late or amended federal income tax, and the amount of the earned income tax credit is reduced. DOR rules would also need to specify whether payments ought to be intercepted for back child support payments or other liabilities of the recipient.

DOR recommends that the bill be amended to allow for DOR to have time to process the payments in an efficient and accurate manner. DOR also recommends that the bill be amended to allow for payments to be intercepted for delinquent child support payments, that no state earned income tax credit payment be made for less than $10, and that all confidentiality requirements for federal tax returns be applicable to all state entities responsible for the program created in HB 97.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES