SENATE BILL REPORT
SB 6875

As of February 25, 2010

Title: An act relating to providing funding for levy equalization, state need grants, kindergarten programs, and working families' tax exemptions by increasing revenues and facilitating the funding within the state expenditure limit.

Brief Description: Providing funding for levy equalization, state need grants, kindergarten programs, and working families' tax exemptions by increasing revenues and facilitating the funding within the state expenditure limit.

Sponsors: Senators Prentice, Kline and Kohl-Welles.

Brief History:
Committee Activity: Ways & Means: 2/24/10.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

Background: The Sales and Use Tax. The sales tax is imposed by the state, counties, and cities on retail sales of most items of tangible personal property and some services, including construction and repair services. If retail sales taxes were not collected when the property or services were acquired by the user, then use taxes are applied to the value of most tangible personal property and some services when used in this state. Use tax rates are the same as retail sales tax rates. The combined state/local rate is between 7 and 9.5 percent, depending on location.

The Federal Earned Income Tax Credit. The earned income tax credit (EITC), established in the federal tax code in 1975, is a refundable tax credit available to eligible workers earning relatively low wages. Because the credit is refundable, an EITC recipient need not owe taxes to receive the benefits. The amount of the credit varies but it is generally determined by income and family size. Some states with an income tax provide an EITC.

For purposes of the EITC, earned income includes wages, salaries, tips, and other taxable employee pay. The following types of income are not considered earned income: retired persons' disability benefits, pensions and annuities, social security, child support, welfare benefits, workers' compensation benefits, and veterans' benefits. The EITC cannot be claimed unless investment income is less than $3,100 for the 2009 tax year.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Generally, a taxpayer may be able to take the credit for tax year 2009 if the taxpayer:

- has three or more qualifying children and earns less than $43,279 ($48,279 married filing jointly);
- has two qualifying children and earns less than $40,295 ($45,295 married filing jointly);
- has one qualifying child and earns less than $35,463 ($40,463 married filing jointly); or
- has no qualifying children and earns less than $13,440 ($18,440 married filing jointly).

For the 2009 tax year, the maximum credit is:

- $5,657 with three or more qualifying children;
- $5,028 with two qualifying children;
- $3,043 with one qualifying child; and
- $457 with no qualifying children.

Working Families' Tax Exemption. In 2008 the Legislature enacted a working families' tax exemption in the form of a state sales tax remittance, equal to a percentage of the EITC.

Persons eligible for the credit must file a federal income tax return, receive an EITC, and have resided in Washington for more than 180 days in the year which the exemption is claimed. Eligible persons must pay the sales tax in the year for which the exemption is claimed.

For remittances in 2009 and 2010, the exemption for the prior year is $25 or equal to 5 percent of the EITC for which data is available, whichever is greater. For 2011 and thereafter, the exemption for the prior year is $50 or equal to 10 percent of the EITC for which data is available, whichever is greater. For any fiscal period, the working families' tax exemption must be approved in the state omnibus appropriations act.

The Department of Revenue (DOR) determines eligibility based on information provided by the applicant, and through audit, administrative records, and verification of Internal Revenue Service records. DOR may use the best data available to process the remittance. DOR may, in conjunction with other agencies or organizations, design a public information campaign to inform potentially eligible persons of the exemption. DOR may contact persons who appear to be eligible. The administrative provisions of chapter 82.32 RCW apply and DOR is granted rulemaking authority. DOR must limit its costs to the initial start-up costs to implement the program. The state omnibus appropriations act must specify funding to be used for the ongoing administrative costs of the program.

Summary of Bill: From June 1, 2010 until June 30, 2013, an additional sales and use tax of 0.3 percent is imposed.

An amount of $313,307,000, reflecting the increased revenue receipts, is appropriated for fiscal year 2011 from the State General Fund to the Education Legacy Trust Account to maintain support for property-poor school districts through the state's levy equalization program, provide funding for approximately 16,000 students to continue to receive statefunded all-day kindergarten, and allow approximately 34,000 students to attend institutions of higher education with the assistance of the state need grant.

The Working Families' Tax Exemption is provided to eligible low-income persons for sales tax paid after June 1, 2010. For remittances made in 2011 (for taxes paid in 2010), the exemption is the greater of $25 or a 5 percent of the EITC granted, prorated for the seven calendar months of 2010 in which the additional tax is imposed. For remittances made in 2012, the exemption is the greater of $25 or 5 percent of the EITC granted. For remittances made in 2013 and thereafter, the exemption is the greater of $50 or 10 percent of the EITC granted. For remittances provided in the fiscal year 2015 and thereafter, DOR must limit its ongoing costs to administer the program to 5 percent of the total exemptions provided each year.

An exception from the requirement that a sales and use tax change take effect no sooner than 75 days after its enactment and only on the first day of January, April, July, or October is provided.

An exception is provided from lowering the state expenditure limit the monies deposited into or appropriated from the Education Legacy Trust Account.

Appropriation: Appropriates $313,307,000 from the State General Fund to the Education Legacy Trust Account for fiscal year 2011.

Fiscal Note: Requested on February 24, 2010.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately, except for section 3 (double amendment to the sales tax provision in RCW 82.08.020) which takes effect on January 1, 2011.

Staff Summary of Public Testimony: PRO: This is an important proposal to support higher education funding. This provides the revenue necessary to fund state needs grants. This will help preserve access to higher education institutions. Helps students achieve the American dream. Low-income persons are paying more than their fair share of the tax burden, relative to their incomes. The rebate will ease the burden. The investment in higher education is an investment in the future.

CON: Any increase to the sales tax reduces sales in retail stores. In the current economic environment, consumers are price conscious. The number one concern of independent business members is an increase in the sales tax. This will undermine consumer confidence. Tax increase proposals should be approved by voters. Funding for newer educational programs should be reviewed, and possibly eliminated, rather than tax increases. Sales tax increases impact day-to-day operations of businesses, which must recalibrate accounting and other systems. We should look to more cuts, not tax increases. We support the programs that this tax would fund; but, we believe that levy equalization and all day kindergarten is essential. You cannot fund such essential programs with a temporary source of revenue.

Also, any new sources of revenue should add education programs, rather than replacing existing funding.

OTHER: The sales tax is regressive. We appreciate that the Working Families' tax credit ameliorates that regressivity. However, the unemployed cannot get the EITC, and thus can't get this new credit.

Persons Testifying: PRO: Lonnie Johns-Brown, NOW; Terry Teale, Council of Presidents; Sam Shaddox, John Hanks, ASUW and WSU; Fatima Morales, Washington Community Action Network; Marsha Riddle Buly, WWU.

CON: Mark Johnson, Washington Retail Association; Patrick Conner, National Federation of Independent Business; Amber Carter, Association of Washington Business; John Worthington, citizen; Jan Gee, Washington Food Industry; George Scarola, League of Education Voters; Steve Lindstrom; George Harris, Northwest Marine Trade In; Kurt Kingman, Robert Berglund, Northwest Yachtnet; Tom Cooper, Seacraft Yacht Sales.

OTHER: Randy Parr, Washington Education Association.