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**SENATE BILL 5810**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Nguyen, Randall, Keiser, Wilson, C., Hunt, Takko, Kuderer, Palumbo, Cleveland, Saldaña, Das, Conway, Darneille, Liias, McCoy, Van De Wege, Billig, and Frockt

AN ACT Relating to providing a working families' tax credit; amending RCW 82.08.0206 and 82.08.02061; adding a new section to chapter 82.08 RCW; adding a new section to chapter 50.08 RCW; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The federal earned income tax credit is a refundable tax credit for working individuals and families whose earnings are below an income threshold, and the amount of the credit increases with income until the credit reaches a maximum level and then phases out. The legislature finds that this structure creates an incentive for people to work and earn more income.

(2) The legislature further finds that since its establishment in 1975, the credit has increased family income, reduced child poverty, and promoted employment by supplementing the earnings of low-wage workers, including military families. The credit has a positive impact on the education and health of children living in poverty and an economic impact on local economies and businesses because it puts more money in the hands of low-income and middle-income working people who spend the money on immediate needs, such as groceries, school supplies, car repairs, rent, and health care.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in section 4, chapter . . ., Laws of 2019 (section 4 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for the preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain individuals as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to allow low-income and middle-income workers to recover some or all of the sales tax they pay to support state and local government as a way to increase their economic security and to decrease the regressivity of our state tax code. It is the legislature's intent to provide a sales and use tax exemption, in the form of a remittance, to low-income and middle-income working families.

(4) If a review finds that the working families' tax credit provides meaningful financial relief to low-income and middle-income households, then the legislature intends to extend the expiration date of the tax preference. In their review of the program, the joint legislative audit and review committee should use at least the following metrics: Size of the benefit per household, number of household beneficiaries statewide, and demographic information of beneficiaries to include family size, income level, and geographic location.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the remittance data prepared by the department of revenue and the employment security department.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adjusted gross income" has the same meaning as defined in Title 26 U.S.C. Sec. 62 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule.

(2) "Earned income" has the same meaning as defined in Title 26 U.S.C. Sec. 32(c) as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule.

(3) "Eligible caregiver" means an individual of any age who has:

(a) A qualifying child under the age of six years;

(b) A qualifying relative over the age of seventy years; or

(c) A qualifying relative who is permanently and totally disabled.

(4) "Eligible institution of higher education" means an institution of higher education, as defined in RCW 28B.10.016, a degree-granting institution under RCW 28B.85.010, or a private vocational school under chapter 28C.10 RCW.

(5) "Eligible person" means an individual, or an individual and that person's spouse if they file a joint return, who properly files a federal income tax return as a Washington resident, and has been a resident of the state of Washington for more than one hundred eighty days of the year for which the exemption is claimed and is:

(a) Eligible for, and granted, the credit provided under Title 26 U.S.C. Sec. 32; or

(b) At least age nineteen but not yet age seventy with no qualifying children before the close of the taxable year and is not otherwise eligible for a credit under Title 26 U.S.C. Sec. 32; or

(c) An eligible caregiver of any age and is not otherwise eligible for a credit under Title 26 U.S.C. Sec. 32; or

(d) An eligible student of any age and is not otherwise eligible for a credit under Title 26 U.S.C. Sec. 32; or

(e) An eligible immigrant worker who is not otherwise eligible for a credit under Title 26 U.S.C. Sec. 32.

(6) "Eligible student" means an individual of any age who:

(a) Is enrolled at an eligible institution of higher education located within this state;

(b) Is carrying at least one-half the normal full-time workload for the course of study that the student is pursuing, as determined by the eligible institution of higher education and indicated on the student's federal internal revenue service form 1098-T;

(c) Is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate; and

(d) Is eligible for receipt of the state need grant as established in chapter 28B.92 RCW during the taxable year or is eligible to file a simplified application form for common financial reporting as defined in section 1087(ss) of the education code.

(7) "Eligible immigrant worker" means an individual who filed a federal tax return in the prior year with an individual taxpayer identification number issued by the IRS and who is either:

(a) At least age nineteen but not yet age seventy with no qualifying children; or

(b) Any age with one or more qualifying children.

(8) "Head of household" has the same meaning as defined in Title 26 U.S.C. Sec. 2(b) as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule.

(9) "Married individual" has the same meaning as defined in Title 26 U.S.C. Sec. 7703 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule.

(10) "Permanently and totally disabled" has the same meaning as defined in Title 26 U.S.C. Sec. 22(e)(3) as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule.

(11) "Qualifying child" has the same meaning as defined in Title 26 U.S.C. Sec. 32(c) as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule.

(12) "Qualifying relative" has the same meaning as defined in Title 26 U.S.C. Sec. 152(d) as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule.

(13) "Surviving spouse" has the same meaning as defined in Title 26 U.S.C. Sec. 2(a) as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule.

**Sec.**  RCW 82.08.0206 and 2008 c 325 s 2 are each amended to read as follows:

(1) A working families' tax ((~~exemption~~)) credit, in the form of a remittance of 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~~)) 2019.

(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)~~)) (a) For a single eligible person with one or fewer qualifying children, the remittance equals 5.1 percent of the first ten thousand one hundred eighty dollars of earned income. The remittance is reduced by 2.4 percent of earned income or adjusted gross income, whichever is greater, in excess of eighteen thousand six hundred sixty dollars. In no case is the remittance less than fifty dollars.

(b) For an eligible person who is married and filing a joint return who has one or fewer qualifying children or a surviving spouse who has one or fewer qualifying children, the remittance equals 5.1 percent of the first ten thousand one hundred eighty dollars of earned income. The remittance is reduced by 2.4 percent of earned income or adjusted gross income, whichever is greater, in excess of twenty-four thousand three hundred fifty dollars. In no case is the remittance less than fifty dollars.

(c) For a single eligible person, an eligible person who is married and filing a joint return, a surviving spouse, or a head of household who has two or more qualifying children, the remittance equals fifteen percent of the amount received from the federal earned income tax credit under Title 26 U.S.C. Sec. 32. In no case is the remittance less than fifty dollars.

(d) For an eligible caregiver or eligible student with earned income of less than forty-nine thousand four hundred dollars, the remittance equals the greater of the remittance otherwise allowed under this subsection or one hundred fifty dollars. The remittance is reduced by twenty-five percent of earned income or adjusted gross income, whichever is greater, in excess of forty-nine thousand four hundred dollars. In no case is the remittance less than fifty dollars.

(3) (a) On January 1st of each year the amounts used to calculate the remittance and the income thresholds at which the maximum remittance begins to be reduced in subsection (2)(a) and (b) of this section and the income threshold at which an eligible caregiver or eligible student qualifies for a minimum remittance in subsection (2)(d) of this section must be adjusted based on the annual growth of the consumer price index for all urban consumers (CPI-U) as published by the United States bureau of labor statistics.

(b) The earned income thresholds as adjusted for inflation must be rounded to the nearest ten dollars. If the amount ends in five dollars, the amount is rounded up to the nearest ten dollars.

(c) For purposes of this section, earned income, adjusted gross income, status as a claimed qualifying child or qualifying relative by another taxpayer, married individual, head of household, qualifying child, qualifying relative, surviving spouse, eligible student, eligible caregiver, immigrant worker, and permanently and totally disabled are determined based on the eligible individual's most recent federal tax filing.

(4) An individual is not eligible for a remittance in any calendar year in which the individual is claimed as a qualifying child or qualifying relative by another taxpayer for the purposes of calculating the remittance under this section.

(5) For any fiscal period, the working families' tax ((~~exemption~~)) credit authorized under this section ((~~shall~~)) must be approved and funded by the legislature in the state omnibus appropriations act before persons may claim the exemption during the fiscal period. If authorization and funding is not provided, the department is under no liability for benefit payment or program operation.

((~~(5)~~)) (6) The working families' tax ((~~exemption shall~~)) credit must 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 employment security department for the remittance as calculated under subsection ((~~(3)~~)) (2) of this section.

(b) Application ((~~shall~~)) must be made to the employment security department in a form and manner determined by the department, but the employment security 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~~)) 2019. The department ((~~may use the best available data to process the exemption remittance. The department shall begin accepting applications October 1, 2009~~)) must use the individuals' most recent federal tax filing to process the exemption remittance. The department has rule-making authority over implementation of this act, including establishment of a date by which applications will be accepted for the program, with the aim of accepting applications as soon as possible.

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

(e) Subject to specific funds provided in the omnibus operating appropriations act, the department ((~~shall~~)) must remit the exempted amounts to eligible low-income persons who submitted applications. Remittances may be made by electronic funds transfer or other means. The department must provide applicants an option for a monthly remittance.

(f) The department ((~~may~~)) must, 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)~~)) (7) The provisions of chapter 82.32 RCW apply to the exemption in this section.

((~~(7)~~)) (8) 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.~~))

(9) The state omnibus operating appropriations act ((~~shall~~)) must specify funding to be used for the initial start-up and 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, facility space, processing ((~~warrants~~)) payments, updating printed materials and web information, media advertising, and support and maintenance of computer systems.

(10) The department must begin engaging in rule making, public outreach and education efforts, and other preliminary planning as of the effective date of this section, in advance of beginning of benefit payments.

(11) For the purposes of this section, "department" means the employment security department.

(12) Implementation of this section is subject to specific funds provided in the omnibus operating appropriations act.

**Sec.**  RCW 82.08.02061 and 2014 c 97 s 317 are each amended to read as follows:

(1) Subject to sufficient funding provided, the department must assess the implementation of the working families' tax ((~~exemption~~)) credit in a report to the legislature ((~~to~~)). The report must identify administrative or resource issues that require legislative action and evaluate whether the remittance may be administered monthly and without an annual application process.

(2) The department must submit the report to the finance committee of the house of representatives and the ways and means committee of the senate within eighteen months of the implementation of the program.

(3) For the purposes of this section, "department" means the employment security department.

NEW SECTION. **Sec.**  A new section is added to chapter 50.08 RCW to read as follows:

The department must administer the working families' tax credit as provided in RCW 82.08.0206.

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