SENATE BILL REPORT
ESSB 6809

As Amended by House, March 6, 2008

Title: An act relating to providing a tax exemption for working families measured by the federal earned income tax credit.

Brief Description: Providing a tax exemption for working families measured by the federal earned income tax credit.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Pridemore, McAuliffe, Rockefeller, Eide, Oemig, Hatfield, Regala, Fraser, Brown, Fairley, Tom, Kilmer, Keiser, Franklin, Kauffman, Kline, Rasmussen, Spanel, Jacobsen and Kohl-Welles).

Brief History:
Committee Activity: Ways & Means: 2/04/08, 2/12/08 [DPS, DNP, w/oRec].
Passed Senate: 2/19/08, 32-16.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6809 be substituted therefor, and the substitute bill do pass.
Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Hatfield, Hobbs, Keiser, Kohl-Welles, Oemig, Rasmussen, Regala, Rockefeller and Tom.

Minority Report: Do not pass.
Signed by Senators Zarelli, Ranking Minority Member; Parlette.

Minority Report: That it be referred without recommendation.
Signed by Senators Brandland, Roach and Schoesler.

Staff: Dianne Criswell (786-7433)

Background: 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

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benefits, workers' compensation benefits, and veterans' benefits. The EITC cannot be claimed unless investment income is less than $2,900 for the 2007 tax year.

Generally, a taxpayer may be able to take the credit for tax year 2007 if the taxpayer:
- has more than one qualifying child and earns less than $37,783 ($39,783 if married filing jointly);
- has one qualifying child and earns less than $33,241 ($35,241 if married filing jointly); or
- does not have a qualifying child and earns less than $12,590 ($14,590 if married filing jointly).

For the 2007 tax year, the maximum credit is $4,716 for a family with two or more children; $2,853 for a family with one child and $428 if the taxpayer does not reside with children.

Sales and Use Tax. Sales tax is imposed on the retail sales of most items of tangible personal property and some services. The use tax is imposed on the privilege of using tangible personal property or services in instances where the sales tax does not apply. Sales and use taxes are levied by the state, counties, and cities, and total rates vary from 7 to 8.9 percent.

Sales taxes are collected by the seller from the buyer at the time of sale. Use tax is remitted directly to the Department of Revenue (DOR). State sales and use tax revenues are deposited in the state General Fund.

Summary of Engrossed Substitute Bill: The bill creates 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.

Beginning October 1, 2009, eligible persons may electronically apply to DOR for a remittance. There must be alternative filing methods for applicants who do not have access to electronic filing. The remittances may be made by electronic funds transfer. For remittances in 2009 and 2010, the exemption for the prior year is equal to 5 percent of the EITC for which data is available or $25, whichever is greater. For 2011 and thereafter, the exemption for the prior year is equal to 10 percent of the EITC for which data is available or $50, whichever is greater.

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 report back to the Legislature by December 1, 2012, to identify administrative or resource issues that require legislative action.
The working families' tax exemption, in the form of a remittance, must be suspended for any fiscal period if so directed by the state omnibus appropriations act.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The Legislature has granted many tax benefits to provide business incentives. This proposal is different. This is a tax remittance for folks who have earned it and needed it most. The remittance is based on sales tax that persons have paid. Income is a good barometer of sales tax paid, and this bill uses that as a measure to avoid complicated administration. This money would go to pay for the needs of our most needy working families. This proposal compliments the EITC, which provides strong support to working families. This kind of support can boost income and help lift families out of poverty. Twenty-two states and the District of Columbia provide an EITC to parallel the federal program. This proposal can boost our state's economy. This proposal can help working families meet their basic needs. This has been proven by the federal EITC, which helps families pay for food, housing, clothing, and auto repairs. The United Way helps low-income people prepare their federal tax returns so that persons qualified for the EITC know to claim it. The 2-1-1 call line would be a good information portal for this remittance. This bill will help low-income and disabled people in urban, suburban, and rural areas. Labor, civic, and senior groups can unite under this bill to make our tax structure more fair. This is a targeted improvement to our tax structure that disproportionately affects low-income persons.

OTHER: We are not opposing because there is value in helping working families. The label "exemption" is a misnomer. There is no connection between the remittance and proof that the tax was paid. This is not provided for the tax exemptions and remittances for businesses. This raises possible constitutional concerns about the gift of public funds or lending of public credit. We would like to see the impacts of this. We are also concerned about the administrability of this program, especially when this proposal falls at the same time that the very complicated changes related to the Streamlined Sales Tax sourcing provisions are being implemented by DOR and businesses around the state. There are also concerns about fraud, especially when related to the residency requirements.

Persons Testifying: PRO: Senator Pridemore, prime sponsor; Pam Toal, United Way of Thurston County; Jeff Johnson, Service Employees International Union.

OTHER: Amber Carter, Association of Washington Businesses.

House Amendment(s): Requires the Legislature to approve the exemption program in the state omnibus appropriations act. Limits DOR costs for the exemption program to initial start-up costs.