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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, Lias, McCoy, Van De Wege, Billig, and Frockt

Read first time 02/04/19. Referred to Committee on Human Services, Reentry & Rehabilitation.

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

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

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

12 (2) The legislature further finds that since its establishment in  
13 1975, the credit has increased family income, reduced child poverty,  
14 and promoted employment by supplementing the earnings of low-wage  
15 workers, including military families. The credit has a positive  
16 impact on the education and health of children living in poverty and  
17 an economic impact on local economies and businesses because it puts  
18 more money in the hands of low-income and middle-income working  
19 people who spend the money on immediate needs, such as groceries,  
20 school supplies, car repairs, rent, and health care.

1        NEW SECTION.    **Sec. 2.**    (1) This section is the tax preference  
2 performance statement for the tax preference contained in section 4,  
3 chapter . . . , Laws of 2019 (section 4 of this act). This performance  
4 statement is only intended to be used for subsequent evaluation of  
5 the tax preference. It is not intended to create a private right of  
6 action by any party or be used to determine eligibility for the  
7 preferential tax treatment.

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

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

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

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

31        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 82.08  
32 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (d) Is eligible for receipt of the state need grant as  
40 established in chapter 28B.92 RCW during the taxable year or is

1 eligible to file a simplified application form for common financial  
2 reporting as defined in section 1087(ss) of the education code.

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

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

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

9 (8) "Head of household" has the same meaning as defined in Title  
10 26 U.S.C. Sec. 2(b) as it existed on the effective date of this  
11 section, or such subsequent date as may be provided by the department  
12 by rule.

13 (9) "Married individual" has the same meaning as defined in Title  
14 26 U.S.C. Sec. 7703 as it existed on the effective date of this  
15 section, or such subsequent date as may be provided by the department  
16 by rule.

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

21 (11) "Qualifying child" has the same meaning as defined in Title  
22 26 U.S.C. Sec. 32(c) as it existed on the effective date of this  
23 section, or such subsequent date as may be provided by the department  
24 by rule.

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

29 (13) "Surviving spouse" has the same meaning as defined in Title  
30 26 U.S.C. Sec. 2(a) as it existed on the effective date of this  
31 section, or such subsequent date as may be provided by the department  
32 by rule.

33 **Sec. 4.** RCW 82.08.0206 and 2008 c 325 s 2 are each amended to  
34 read as follows:

35 (1) A working families' tax (~~(exemption)~~) credit, in the form of  
36 a remittance of tax due under this chapter and chapter 82.12 RCW, is  
37 provided to eligible low-income persons for sales taxes paid under  
38 this chapter after January 1, (~~(2008)~~) 2019.

1           ~~(2) ((For purposes of the exemption in this section, an eligible~~  
2 ~~low-income person is:~~

3           ~~(a) An individual, or an individual and that individual's spouse~~  
4 ~~if they file a federal joint income tax return;~~

5           ~~(b) [An individual who] Who is eligible for, and is granted, the~~  
6 ~~credit provided in Title 26 U.S.C. Sec. 32; and~~

7           ~~(c) [An individual who] Who properly files a federal income tax~~  
8 ~~return as a Washington resident, and has been a resident of the state~~  
9 ~~of Washington more than one hundred eighty days of the year for which~~  
10 ~~the exemption is claimed.~~

11           ~~(3) For remittances made in 2009 and 2010, the working families'~~  
12 ~~tax exemption for the prior year is a retail sales tax exemption~~  
13 ~~equal to the greater of five percent of the credit granted as a~~  
14 ~~result of Title 26 U.S.C. Sec. 32 in the most recent year for which~~  
15 ~~data is available or twenty-five dollars. For 2011 and thereafter,~~  
16 ~~the working families' tax exemption for the prior year is equal to~~  
17 ~~the greater of ten percent of the credit granted as a result of Title~~  
18 ~~26 U.S.C. Sec. 32 in the most recent year for which data is available~~  
19 ~~or fifty dollars.~~

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

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

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

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

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

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

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

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

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

38 (~~(5)~~) (6) The working families' tax (~~exemption shall~~) credit  
39 must be administered as provided in this subsection.

1 (a) An eligible (~~low-income~~) person claiming an exemption under  
2 this section must pay the tax imposed under chapters 82.08, 82.12,  
3 and 82.14 RCW in the year for which the exemption is claimed. The  
4 eligible (~~low-income~~) person may then apply to the employment  
5 security department for the remittance as calculated under subsection  
6 (~~(3)~~) (2) of this section.

7 (b) Application (~~shall~~) must be made to the employment security  
8 department in a form and manner determined by the department, but the  
9 employment security department must provide alternative filing  
10 methods for applicants who do not have access to electronic filing.

11 (c) Application for the exemption remittance under this section  
12 must be made in the year following the year for which the federal  
13 return was filed, but in no case may any remittance be provided for  
14 any period before January 1, (~~2008~~) 2019. The department (~~may use~~  
15 ~~the best available data to process the exemption remittance. The~~  
16 ~~department shall begin accepting applications October 1, 2009~~) must  
17 use the individuals' most recent federal tax filing to process the  
18 exemption remittance. The department has rule-making authority over  
19 implementation of this act, including establishment of a date by  
20 which applications will be accepted for the program, with the aim of  
21 accepting applications as soon as possible.

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

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

34 (f) The department (~~may~~) must, in conjunction with other  
35 agencies or organizations, design and implement a public information  
36 campaign to inform potentially eligible persons of the existence of  
37 and requirements for this exemption.

38 (g) The department may contact persons who appear to be eligible  
39 (~~low-income~~) persons as a result of information received from the

1 internal revenue service under such conditions and requirements as  
2 the internal revenue service may by law require.

3 ~~((6))~~ (7) The provisions of chapter 82.32 RCW apply to the  
4 exemption in this section.

5 ~~((7))~~ (8) The department may adopt rules necessary to implement  
6 this section.

7 ~~((8) The department shall limit its costs for the exemption  
8 program to the initial start-up costs to implement the program.)~~

9 (9) The state omnibus operating appropriations act ~~((shall))~~ must  
10 specify funding to be used for the initial start-up and ongoing  
11 administrative costs of the program. These ongoing administrative  
12 costs include, but are not limited to, costs for: The processing of  
13 internet and mail applications, verification of application claims,  
14 compliance and collections, additional full-time employees at the  
15 department's call center, facility space, processing ~~((warrants))~~  
16 payments, updating printed materials and web information, media  
17 advertising, and support and maintenance of computer systems.

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

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

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

26 **Sec. 5.** RCW 82.08.02061 and 2014 c 97 s 317 are each amended to  
27 read as follows:

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

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

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



1        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 50.08  
2    RCW to read as follows:  
3        The department must administer the working families' tax credit  
4    as provided in RCW 82.08.0206.

--- **END** ---