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**SUBSTITUTE SENATE BILL 5358**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Gildon, Braun, Darneille, Nguyen, Warnick, and Wellman)

READ FIRST TIME 02/05/21.

1 AN ACT Relating to providing incentives to employers to hire  
2 certain hard-to-place job seekers; adding a new section to chapter  
3 82.04 RCW; adding a new section to chapter 82.16 RCW; creating a new  
4 section; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** (1) This section is the tax preference  
7 performance statement for the tax preferences contained in sections 2  
8 and 3, chapter . . ., Laws of 2021 (sections 2 and 3 of this act).  
9 This performance statement is only intended to be used for subsequent  
10 evaluation of the tax preference. It is not intended to create a  
11 private right of action by any party or be used to determine  
12 eligibility for preferential tax treatment.

13 (2) The legislature categorizes these tax preferences as ones  
14 intended to induce certain designated behavior by taxpayers and  
15 create or retain jobs, as indicated in RCW 82.32.808(2) (a) and (c).

16 (3) It is the legislature's specific public policy objective to  
17 encourage the employment of certain unemployed persons, such as  
18 persons convicted of a felony and homeless persons. It is the  
19 legislature's intent to provide employers a credit against the  
20 business and occupation tax or public utility tax for hiring certain  
21 unemployed persons which would reduce an employer's tax burden

1 thereby inducing employers to hire and create jobs for such persons.  
2 Pursuant to chapter 43.136 RCW, the joint legislative audit and  
3 review committee must review the business and occupation tax and  
4 public utility tax credit established under sections 2 and 3,  
5 chapter . . ., Laws of 2021 (sections 2 and 3 of this act) by  
6 December 31, 2030.

7 (4) If a review finds that the number of unemployed persons who  
8 meet the criteria in section 2(7)(c)(i) or 3(7)(c)(i) of this act  
9 decreased by 30 percent, then the legislature intends for the  
10 legislative auditor to recommend extending the expiration date of the  
11 tax preference.

12 (5) In order to obtain the data necessary to perform the review  
13 in subsection (4) of this section, the joint legislative audit and  
14 review committee should refer to unemployment rates available from  
15 the employment security department and the bureau of labor  
16 statistics.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04  
18 RCW to read as follows:

19 (1) A person is allowed a credit against the tax due under this  
20 chapter as provided in this section. The credit equals the lesser of  
21 10 percent or \$500 of wages and benefits paid to or on behalf of a  
22 qualifying employee, with a maximum of a \$500 credit for each  
23 qualifying employee hired on or after October 1, 2021.

24 (2) No credit may be claimed under this section until a  
25 qualifying employee has been employed for at least three consecutive  
26 full calendar quarters.

27 (3) Unused credit may be carried over and used in subsequent tax  
28 reporting periods, except as provided in subsection (8) of this  
29 section. No refunds may be granted for credits under this section.

30 (4) If an employer discharges a qualifying employee for whom the  
31 employer has claimed a credit under this section, the employer may  
32 not claim a new credit under this section for a period of one year  
33 from the date the qualifying employee was discharged. However, this  
34 subsection (4) does not apply if the qualifying employee was  
35 discharged for misconduct, as defined in RCW 50.04.294, connected  
36 with his or her work or discharged due to a felony or gross  
37 misdemeanor conviction, and the employer contemporaneously documents  
38 the reason for discharge.

1 (5) Credits earned under this section may be claimed only on  
2 returns filed electronically with the department using the  
3 department's online tax filing service or other method of electronic  
4 reporting as the department may authorize. No application is required  
5 to claim the credit, but the taxpayer must keep records necessary for  
6 the department to determine eligibility under this section including  
7 records establishing the person's status as a qualifying employee  
8 under subsection (7)(c)(i) and (ii) of this section when hired by the  
9 taxpayer.

10 (6) No person may claim a credit against taxes due under both  
11 this chapter and chapter 82.16 RCW for the same qualifying employee.

12 (7) The definitions in this subsection apply throughout this  
13 section unless the context clearly requires otherwise.

14 (a) "Homeless person" has the same meaning as provided in RCW  
15 43.185C.010.

16 (b) "Person convicted of a felony" means a person, including a  
17 juvenile as defined in RCW 13.40.020, convicted of a felony under  
18 state or federal statute who is hired within one calendar year after  
19 the last date that the person was convicted or released from a  
20 juvenile rehabilitation facility or prison.

21 (c) "Qualifying employee" means a person who meets all of the  
22 following requirements:

23 (i) Is a homeless person or a person convicted of a felony;

24 (ii) Was unemployed as defined in RCW 50.04.310 for at least 30  
25 days immediately preceding the date that the person was hired by the  
26 person claiming the credit under this section; and

27 (iii) Is employed in a permanent full-time position for at least  
28 three consecutive full calendar quarters by the person claiming the  
29 credit under this section. For seasonal employers, "qualifying  
30 employee" also includes the equivalent of a full-time employee in  
31 work hours for two consecutive full calendar quarters. For purposes  
32 of this subsection (7)(c)(iii), "full-time" means a normal workweek  
33 of at least 35 hours.

34 (8) Credits allowed under this section can be earned for tax  
35 reporting periods through June 30, 2030. No credits can be claimed  
36 after June 30, 2031.

37 (9) This section expires July 1, 2031.

38 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.16  
39 RCW to read as follows:

1 (1) A person is allowed a credit against the tax due under this  
2 chapter as provided in this section. The credit equals the lesser of  
3 10 percent or \$500 of wages and benefits paid to or on behalf of a  
4 qualifying employee, with a maximum of a \$500 credit for each  
5 qualifying employee hired on or after October 1, 2021.

6 (2) No credit may be claimed under this section until a  
7 qualifying employee has been employed for at least three consecutive  
8 full calendar quarters.

9 (3) Unused credit may be carried over and used in subsequent tax  
10 reporting periods, except as provided in subsection (8) of this  
11 section. No refunds may be granted for credits under this section.

12 (4) If an employer discharges a qualifying employee for whom the  
13 employer has claimed a credit under this section, the employer may  
14 not claim a new credit under this section for a period of one year  
15 from the date the qualifying employee was discharged. However, this  
16 subsection (4) does not apply if the qualifying employee was  
17 discharged for misconduct, as defined in RCW 50.04.294, connected  
18 with his or her work or discharged due to a felony or gross  
19 misdemeanor conviction, and the employer contemporaneously documents  
20 the reason for discharge.

21 (5) Credits earned under this section may be claimed only on  
22 returns filed electronically with the department using the  
23 department's online tax filing service or other method of electronic  
24 reporting as the department may authorize. No application is required  
25 to claim the credit, but the taxpayer must keep records necessary for  
26 the department to determine eligibility under this section including  
27 records establishing the person's status as a qualifying employee  
28 under subsection (7)(c)(i) and (ii) of this section when hired by the  
29 taxpayer.

30 (6) No person may claim a credit against taxes due under both  
31 chapter 82.04 RCW and this chapter for the same qualifying employee.

32 (7) The definitions in this subsection apply throughout this  
33 section unless the context clearly requires otherwise.

34 (a) "Homeless person" has the same meaning as provided in RCW  
35 43.185C.010.

36 (b) "Person convicted of a felony" means a person, including a  
37 juvenile as defined in RCW 13.40.020, convicted of a felony under  
38 state or federal statute who is hired within one calendar year after  
39 the last date that the person was convicted or released from a  
40 juvenile rehabilitation facility or prison.

1 (c) "Qualifying employee" means a person who meets all of the  
2 following requirements:  
3 (i) Is a homeless person or a person convicted of a felony;  
4 (ii) Was unemployed as defined in RCW 50.04.310 for at least 30  
5 days immediately preceding the date that the person was hired by the  
6 person claiming the credit under this section; and  
7 (iii) Is employed in a permanent full-time position for at least  
8 three consecutive full calendar quarters by the person claiming the  
9 credit under this section. For seasonal employers, "qualifying  
10 employee" also includes the equivalent of a full-time employee in  
11 work hours for two consecutive full calendar quarters. For purposes  
12 of this subsection (7)(c)(iii), "full-time " means a normal workweek  
13 of at least 35 hours.  
14 (8) Credits allowed under this section can be earned for tax  
15 reporting periods through June 30, 2030. No credits can be claimed  
16 after June 30, 2031.  
17 (9) This section expires July 1, 2031.

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