

HOUSE BILL 2796

State of Washington

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By Representatives Carlyle, Hunter, Freeman, Walkinshaw, Ryu, Tarleton, Jinkins, Tharinger, Fey, Pollet, Ormsby, Van De Wege, Roberts, S. Hunt, Riccelli, Moscoso, and Farrell

Read first time 02/26/14. Referred to Committee on Finance.

1 AN ACT Relating to investing in education by narrowing or
2 eliminating certain tax preferences; amending RCW 82.12.0263,
3 82.08.0293, 82.12.0293, and 82.08.0273; adding new sections to chapter
4 82.12 RCW; adding new sections to chapter 82.08 RCW; adding new
5 sections to chapter 82.32 RCW; adding new sections to chapter 43.135
6 RCW; adding new sections to chapter 39.42 RCW; repealing RCW 82.04.272;
7 providing an effective date; and declaring an emergency.

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

9 PART I

10 **Narrowing the Extracted Fuel Tax Exemption to Provide Funding for the**
11 **Education Legacy Trust Account**

12 **Sec. 101.** RCW 82.12.0263 and 1980 c 37 s 62 are each amended to
13 read as follows:

14 The provisions of this chapter (~~shall~~) do not apply in respect to
15 the use of biomass fuel by the extractor or manufacturer thereof when
16 used directly in the operation of the particular extractive operation
17 or manufacturing plant which produced or manufactured the same. For
18 purposes of this section, "biomass fuel" means wood waste and other

1 wood residuals, including forest derived biomass, but does not include
2 firewood or wood pellets. "Biomass fuel" also includes partially
3 organic by-products of pulp, paper, and wood manufacturing processes.

4 NEW SECTION. Sec. 102. A new section is added to chapter 82.12
5 RCW to read as follows:

6 (1) The value of the article used with respect to refinery fuel gas
7 under this chapter is the most recent monthly United States natural gas
8 wellhead price, as published by the federal energy information
9 administration.

10 (2) Taxes collected under this chapter on the use of refinery fuel
11 gas must be deposited in the education legacy trust account. The
12 department must establish a separate reporting code for taxes collected
13 under this chapter on the use of refinery fuel gas.

14 (3) This section applies to the use of refinery fuel gas occurring
15 on or after June 1, 2014.

16 PART II

17 **Eliminating the Sales and Use Tax Exemption for Bottled Water**

18 **Sec. 201.** RCW 82.08.0293 and 2011 c 2 s 301 are each amended to
19 read as follows:

20 (1) The tax levied by RCW 82.08.020 does not apply to sales of food
21 and food ingredients. "Food and food ingredients" means substances,
22 whether in liquid, concentrated, solid, frozen, dried, or dehydrated
23 form, that are sold for ingestion or chewing by humans and are consumed
24 for their taste or nutritional value. "Food and food ingredients" does
25 not include:

26 (a) "Alcoholic beverages," which means beverages that are suitable
27 for human consumption and contain one-half of one percent or more of
28 alcohol by volume; and

29 (b) "Tobacco," which means cigarettes, cigars, chewing or pipe
30 tobacco, or any other item that contains tobacco.

31 (2) The exemption of "food and food ingredients" provided for in
32 subsection (1) of this section does not apply to prepared food, soft
33 drinks, bottled water, or dietary supplements. (~~(For purposes of this~~
34 ~~subsection, the following definitions apply:)~~ The definitions in this

1 subsection apply throughout this section unless the context clearly
2 requires otherwise.

3 (a) "Bottled water" means water that is placed in a safety sealed
4 container or package for human consumption. Bottled water is calorie
5 free and does not contain sweeteners or other additives except that it
6 may contain: (i) Antimicrobial agents; (ii) fluoride; (iii)
7 carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen;
8 (vi) preservatives; and (vii) only those flavors, extracts, or essences
9 derived from a spice or fruit. "Bottled water" includes water that is
10 delivered to the buyer in a reusable container that is not sold with
11 the water.

12 (b) "Dietary supplement" means any product, other than tobacco,
13 intended to supplement the diet that:

- 14 (i) Contains one or more of the following dietary ingredients:
 - 15 (A) A vitamin;
 - 16 (B) A mineral;
 - 17 (C) An herb or other botanical;
 - 18 (D) An amino acid;
 - 19 (E) A dietary substance for use by humans to supplement the diet by
 - 20 increasing the total dietary intake; or
 - 21 (F) A concentrate, metabolite, constituent, extract, or combination
 - 22 of any ingredient described in this subsection;
- 23 (ii) Is intended for ingestion in tablet, capsule, powder, softgel,
- 24 gelcap, or liquid form, or if not intended for ingestion in such form,
- 25 is not represented as conventional food and is not represented for use
- 26 as a sole item of a meal or of the diet; and
- 27 (iii) Is required to be labeled as a dietary supplement,
- 28 identifiable by the "supplement facts" box found on the label as
- 29 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as
- 30 of January 1, 2003.

31 ~~((b))~~ (c)(i) "Prepared food" means:

- 32 (A) Food sold in a heated state or heated by the seller;
- 33 (B) Food sold with eating utensils provided by the seller,
- 34 including plates, knives, forks, spoons, glasses, cups, napkins, or
- 35 straws. A plate does not include a container or packaging used to
- 36 transport the food; or
- 37 (C) Two or more food ingredients mixed or combined by the seller
- 38 for sale as a single item, except:

1 (I) Food that is only cut, repackaged, or pasteurized by the
2 seller; or

3 (II) Raw eggs, fish, meat, poultry, and foods containing these raw
4 animal foods requiring cooking by the consumer as recommended by the
5 federal food and drug administration in chapter 3, part 401.11 of The
6 Food Code, published by the food and drug administration, as amended or
7 renumbered as of January 1, 2003, so as to prevent foodborne illness.

8 (ii) "Prepared food" does not include the following food or food
9 ingredients, if the food or food ingredients are sold without eating
10 utensils provided by the seller:

11 (A) Food sold by a seller whose proper primary North American
12 industry classification system (NAICS) classification is manufacturing
13 in sector 311, except subsector 3118 (bakeries), as provided in the
14 "North American industry classification system--United States, 2002";

15 (B) Food sold in an unheated state by weight or volume as a single
16 item; or

17 (C) Bakery items. The term "bakery items" includes bread, rolls,
18 buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes,
19 tortes, pies, tarts, muffins, bars, cookies, or tortillas.

20 ((+e+)) (d) "Soft drinks" means nonalcoholic beverages that contain
21 natural or artificial sweeteners. Soft drinks do not include beverages
22 that contain: Milk or milk products; soy, rice, or similar milk
23 substitutes; or greater than fifty percent of vegetable or fruit juice
24 by volume.

25 (3) Notwithstanding anything in this section to the contrary, the
26 exemption of "food and food ingredients" provided in this section
27 applies to food and food ingredients that are furnished, prepared, or
28 served as meals:

29 (a) Under a state administered nutrition program for the aged as
30 provided for in the older Americans act (P.L. 95-478 Title III) and RCW
31 74.38.040(6);

32 (b) That are provided to senior citizens, individuals with
33 disabilities, or low-income persons by a not-for-profit organization
34 organized under chapter 24.03 or 24.12 RCW; or

35 (c) That are provided to residents, sixty-two years of age or
36 older, of a qualified low-income senior housing facility by the lessor
37 or operator of the facility. The sale of a meal that is billed to both
38 spouses of a marital community or both domestic partners of a domestic

1 partnership meets the age requirement in this subsection (3)(c) if at
2 least one of the spouses or domestic partners is at least sixty-two
3 years of age. For purposes of this subsection, "qualified low-income
4 senior housing facility" means a facility:

5 (i) That meets the definition of a qualified low-income housing
6 project under 26 U.S.C. Sec. 42 of the federal internal revenue code,
7 as existing on August 1, 2009;

8 (ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

9 (iii) For which the lessor or operator has at any time been
10 entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42
11 of the federal internal revenue code.

12 (4)(a) Subsection (1) of this section notwithstanding, the retail
13 sale of food and food ingredients is subject to sales tax under RCW
14 82.08.020 if the food and food ingredients are sold through a vending
15 machine. Except as provided in (b) of this subsection, the selling
16 price of food and food ingredients sold through a vending machine for
17 purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

18 (b) For soft drinks and hot prepared food and food ingredients,
19 other than food and food ingredients which are heated after they have
20 been dispensed from the vending machine, the selling price is the total
21 gross receipts of such sales divided by the sum of one plus the sales
22 tax rate expressed as a decimal.

23 (c) For tax collected under this subsection (4), the requirements
24 that the tax be collected from the buyer and that the amount of tax be
25 stated as a separate item are waived.

26 **Sec. 202.** RCW 82.12.0293 and 2011 c 2 s 303 are each amended to
27 read as follows:

28 (1) The provisions of this chapter do not apply in respect to the
29 use of food and food ingredients for human consumption. "Food and food
30 ingredients" has the same meaning as in RCW 82.08.0293.

31 (2) The exemption of "food and food ingredients" provided for in
32 subsection (1) of this section does not apply to prepared food, soft
33 drinks, bottled water, or dietary supplements. "Prepared food," "soft
34 drinks," "bottled water," and "dietary supplements" have the same
35 meanings as in RCW 82.08.0293.

36 (3) Notwithstanding anything in this section to the contrary, the

1 exemption of "food and food ingredients" provided in this section
2 applies to food and food ingredients which are furnished, prepared, or
3 served as meals:

4 (a) Under a state administered nutrition program for the aged as
5 provided for in the older Americans act (P.L. 95-478 Title III) and RCW
6 74.38.040(6);

7 (b) Which are provided to senior citizens, individuals with
8 disabilities, or low-income persons by a not-for-profit organization
9 organized under chapter 24.03 or 24.12 RCW; or

10 (c) That are provided to residents, sixty-two years of age or
11 older, of a qualified low-income senior housing facility by the lessor
12 or operator of the facility. The sale of a meal that is billed to both
13 spouses of a marital community or both domestic partners of a domestic
14 partnership meets the age requirement in this subsection (3)(c) if at
15 least one of the spouses or domestic partners is at least sixty-two
16 years of age. For purposes of this subsection, "qualified low-income
17 senior housing facility" has the same meaning as in RCW 82.08.0293.

18 NEW SECTION. **Sec. 203.** A new section is added to chapter 82.08
19 RCW to read as follows:

20 (1) Subject to the conditions in this section, the tax levied by
21 RCW 82.08.020 does not apply to sales of bottled water dispensed or to
22 be dispensed to patients, pursuant to a prescription for use in the
23 cure, mitigation, treatment, or prevention of disease or other medical
24 condition.

25 (2) For purposes of this section, "prescription" means an order,
26 formula, or recipe issued in any form of oral, written, electronic, or
27 other means of transmission by a duly licensed practitioner authorized
28 by the laws of this state to prescribe.

29 (3) Except for sales of bottled water delivered to the buyer in a
30 reusable container that is not sold with the water, sellers must
31 collect tax on sales subject to this exemption. Any buyer that has
32 paid at least twenty-five dollars in state and local sales taxes on
33 purchases of bottled water subject to this exemption may apply for a
34 refund of the taxes directly from the department in a form and manner
35 prescribed by the department. The department must deny any refund
36 application if the amount of the refund requested is less than twenty-

1 five dollars. No refund may be made for taxes paid more than four
2 years after the end of the calendar year in which the tax was paid to
3 the seller.

4 (4) The provisions of RCW 82.32.060 apply to refunds authorized
5 under this section.

6 (5) With respect to sales of bottled water delivered to the buyer
7 in a reusable container that is not sold with the water, buyers
8 claiming the exemption provided in this section must provide the seller
9 with an exemption certificate in a form and manner prescribed by the
10 department. The seller must retain a copy of the certificate for the
11 seller's files.

12 NEW SECTION. **Sec. 204.** A new section is added to chapter 82.12
13 RCW to read as follows:

14 (1) The provisions of this chapter do not apply in respect to the
15 use of bottled water dispensed or to be dispensed to patients, pursuant
16 to a prescription for use in the cure, mitigation, treatment, or
17 prevention of disease or medical condition.

18 (2) For the purposes of this section, "prescription" has the same
19 meaning as provided in section 203 of this act.

20 NEW SECTION. **Sec. 205.** A new section is added to chapter 82.08
21 RCW to read as follows:

22 (1)(a) Subject to the conditions in this section, the tax levied by
23 RCW 82.08.020 does not apply to sales of bottled water to persons whose
24 primary source of drinking water is unsafe.

25 (b) For purposes of this subsection and section 206 of this act, a
26 person's primary source of drinking water is unsafe if:

27 (i) The public water system providing the drinking water has issued
28 a public notification that the drinking water may pose a health risk,
29 and the notification is still in effect on the date that the bottled
30 water was purchased;

31 (ii) Test results on the person's drinking water, which are no more
32 than twelve months old, from a laboratory certified to perform drinking
33 water testing show that the person's drinking water does not meet safe
34 drinking water standards applicable to public water systems; or

35 (iii) The person otherwise establishes, to the department's

1 satisfaction, that the person's drinking water does not meet safe
2 drinking water standards applicable to public water systems.

3 (2) Except for sales of bottled water delivered to the buyer in a
4 reusable container that is not sold with the water, sellers must
5 collect tax on sales subject to this exemption. Any buyer that has
6 paid at least twenty-five dollars in state and local sales taxes on
7 purchases of bottled water subject to this exemption may apply for a
8 refund of the taxes directly from the department in a form and manner
9 prescribed by the department. The department must deny any refund
10 application if the amount of the refund requested is less than
11 twenty-five dollars. No refund may be made for taxes paid more than
12 four years after the end of the calendar year in which the tax was paid
13 to the seller.

14 (3) The provisions of RCW 82.32.060 apply to refunds authorized
15 under this section.

16 (4)(a) With respect to sales of bottled water delivered to the
17 buyer in a reusable container that is not sold with the water, buyers
18 claiming the exemption provided in this section must provide the seller
19 with an exemption certificate in a form and manner prescribed by the
20 department. The seller must retain a copy of the certificate for the
21 seller's files.

22 (b) The department may waive the requirement for an exemption
23 certificate in the event of disaster or similar circumstance.

24 NEW SECTION. **Sec. 206.** A new section is added to chapter 82.12
25 RCW to read as follows:

26 The provisions of this chapter do not apply in respect to the use
27 of bottled water by persons whose primary source of drinking water is
28 unsafe as provided in section 205 of this act.

29 NEW SECTION. **Sec. 207.** A new section is added to chapter 82.32
30 RCW to read as follows:

31 (1) By the last workday of the second and fourth calendar quarters,
32 the state treasurer must transfer the amount specified in subsection
33 (2) of this section from the general fund to the education legacy trust
34 account. The first transfer under this subsection (1) must occur by
35 December 31, 2014.

1 (2) By December 15th and by June 15th of each year, the department
2 must estimate the increase in state general fund revenues from the
3 changes made under sections 201 through 206, chapter . . ., Laws of
4 2014 (sections 201 through 206 of this act) for the current and prior
5 calendar quarters and notify the state treasurer of the increase.

6 NEW SECTION. **Sec. 208.** A new section is added to chapter 43.135
7 RCW to read as follows:

8 RCW 43.135.034(4) does not apply to the transfers under section 207
9 of this act.

10 NEW SECTION. **Sec. 209.** A new section is added to chapter 39.42
11 RCW to read as follows:

12 The purpose of eliminating the sales and use tax exemption for
13 bottled water in sections 201 and 202 of this act is to support
14 education-related expenditures from the education legacy trust account.
15 For this reason, general state revenues transferred to the education
16 legacy trust account under section 207 of this act are excluded from
17 the calculation of general state revenues for purposes of Article VIII,
18 section 1 of the state Constitution and RCW 39.42.130 and 39.42.140.

19 **PART III**
20 **Repealing the Preferential B&O Tax Rate for Sellers of Prescription**
21 **Drugs**

22 NEW SECTION. **Sec. 301.** RCW 82.04.272 (Tax on warehousing and
23 reselling prescription drugs) and 2013 c 19 s 127, 2003 c 168 s 401, &
24 1998 c 343 s 1 are each repealed.

25 NEW SECTION. **Sec. 302.** A new section is added to chapter 82.32
26 RCW to read as follows:

27 (1) Section 301 of this act applies to taxes due for reporting
28 periods beginning on or after the effective date of section 301 of this
29 act.

30 (2) Seventy-one and one-half percent of the taxes collected under
31 this chapter on the warehousing and reselling of prescription drugs for
32 human use pursuant to a prescription must be deposited in the education

1 legacy trust account and the remainder to the state general fund. The
2 department must establish a separate reporting line and code for taxes
3 collected under this chapter with respect to such activities.

4 **PART IV**

5 **Repealing the Nonresident Sales and Use Tax Exemption**

6 **Sec. 401.** RCW 82.08.0273 and 2011 c 7 s 1 are each amended to read
7 as follows:

8 (1) Subject to the conditions and limitations in this section, an
9 exemption from the tax levied by RCW 82.08.020 (~~does not apply to~~) in
10 the form of a remittance from the department is provided for sales to
11 nonresidents of this state of tangible personal property, digital
12 goods, and digital codes(~~(, when)~~). The exemption only applies if:

13 (a) The property is for use outside this state;

14 (b) The purchaser is a bona fide resident of a province or
15 territory of Canada or a state, territory, or possession of the United
16 States, other than the state of Washington; and

17 (i) Such state, possession, territory, or province does not impose,
18 or have imposed on its behalf, a generally applicable retail sales tax,
19 use tax, value added tax, gross receipts tax on retailing activities,
20 or similar generally applicable tax, of three percent or more; or

21 (ii) If imposing a tax described in (b)(i) of this subsection,
22 provides an exemption for sales to Washington residents by reason of
23 their residence; and

24 (c) The purchaser agrees, when requested, to grant the department
25 of revenue access to such records and other forms of verification at
26 (~~his or her~~) the purchaser's place of residence to assure that such
27 purchases are not first used substantially in the state of Washington.

28 (2) Notwithstanding anything to the contrary in this chapter, if
29 parts or other tangible personal property are installed by the seller
30 during the course of repairing, cleaning, altering, or improving motor
31 vehicles, trailers, or campers and the seller makes a separate charge
32 for the tangible personal property, the tax levied by RCW 82.08.020
33 does not apply to the separately stated charge to a nonresident
34 purchaser for the tangible personal property but only if the separately
35 stated charge does not exceed either the seller's current publicly
36 stated retail price for the tangible personal property or, if no

1 publicly stated retail price is available, the seller's cost for the
2 tangible personal property. However, the exemption provided by this
3 section does not apply if tangible personal property is installed by
4 the seller during the course of repairing, cleaning, altering, or
5 improving motor vehicles, trailers, or campers and the seller makes a
6 single nonitemized charge for providing the tangible personal property
7 and service. All of the ~~((requirements))~~ provisions in subsections (1)
8 and (3) through ~~((+6))~~ (7) of this section apply to this subsection.

9 (3)(a) Any person claiming exemption from retail sales tax under
10 the provisions of this section must ~~((display proof of his or her
11 current nonresident status as provided in this section))~~ pay the state
12 and local sales tax to the seller at the time of purchase and then
13 request a remittance from the department in accordance with this
14 subsection and subsection (4) of this section. A request for
15 remittance must include proof of the person's status as a nonresident
16 at the time of the purchase for which a remittance is requested. The
17 request for a remittance must also include any additional information
18 and documentation as required by the department, which may include a
19 description of the item purchased for which a remittance is requested,
20 the sales price of the item, the amount of state and local sales tax
21 paid on the item, the date of the purchase, the name of the seller and
22 the physical address where the sale took place, and copies of sales
23 receipts showing the qualified purchases.

24 (b) Acceptable proof of a nonresident person's status includes one
25 piece of identification such as a valid driver's license from the
26 jurisdiction in which the out-of-state residency is claimed or a valid
27 identification card which has a photograph of the holder and is issued
28 by the out-of-state jurisdiction. Identification under this subsection
29 (3)(b) must show the holder's residential address and have as one of
30 its legal purposes the establishment of residency in that out-of-state
31 jurisdiction.

32 (c) In lieu of furnishing proof of a person's nonresident status
33 under (b) of this subsection (3), a person claiming exemption from
34 retail sales tax under the provisions of this section may provide the
35 seller with an exemption certificate in compliance with subsection
36 (4)(b) of this section.

37 (4)(a) ~~((Nothing in this section requires the vendor to make tax
38 exempt retail sales to nonresidents. A vendor may choose to make sales~~

1 to nonresidents, collect the sales tax, and remit the amount of sales
2 tax collected to the state as otherwise provided by law. If the vendor
3 chooses to make a sale to a nonresident without collecting the sales
4 tax, the vendor must examine the purchaser's proof of nonresidence,
5 determine whether the proof is acceptable under subsection (3)(b) of
6 this section, and maintain records for each nontaxable sale which shall
7 show the type of proof accepted, including any identification numbers
8 where appropriate, and the expiration date, if any.

9 (b) In lieu of using the method provided in (a) of this subsection
10 to document an exempt sale to a nonresident, a seller may accept from
11 the purchaser a properly completed uniform exemption certificate
12 approved by the streamlined sales and use tax agreement governing board
13 or any other exemption certificate as may be authorized by the
14 department and properly completed by the purchaser. A nonresident
15 purchaser who uses an exemption certificate authorized in this
16 subsection (4)(b) must include the purchaser's driver's license number
17 or other state-issued identification number and the state of issuance.

18 (c) In lieu of using the methods provided in (a) and (b) of this
19 subsection to document an exempt sale to a nonresident, a seller may
20 capture the relevant data elements as allowed under the streamlined
21 sales and use tax agreement.

22 (5)(a) Any person making fraudulent statements, which includes the
23 offer of fraudulent identification or fraudulently procured
24 identification to a vendor, in order to purchase goods without paying
25 retail sales tax is guilty of perjury under chapter 9A.72 RCW.

26 (b) Any person making tax exempt purchases under this section by
27 displaying proof of identification not his or her own, or counterfeit
28 identification, with intent to violate the provisions of this section,
29 is guilty of a misdemeanor and, in addition, is liable for the tax and
30 subject to a penalty equal to the greater of one hundred dollars or the
31 tax due on such purchases.

32 (6)(a) Any vendor who makes sales without collecting the tax and
33 who fails to maintain records of sales to nonresidents as provided in
34 this section is personally liable for the amount of tax due.

35 (b) Any vendor who makes sales without collecting the retail sales
36 tax under this section and who has actual knowledge that the
37 purchaser's proof of identification establishing out-of-state residency
38 is fraudulent is guilty of a misdemeanor and, in addition, is liable

1 ~~for the tax and subject to a penalty equal to the greater of one~~
2 ~~thousand dollars or the tax due on such sales. In addition, both the~~
3 ~~purchaser and the vendor are liable for any penalties and interest~~
4 ~~assessable under chapter 82.32 RCW.))~~ (i) Beginning January 1, 2015,
5 through December 31, 2015, a person may request a remittance from the
6 department for state and local sales taxes paid by the person on
7 qualified retail purchases made in Washington between June 1, 2014, and
8 December 31, 2014.

9 (ii) Beginning January 1, 2016, a person may request a remittance
10 from the department during any calendar year for state and local sales
11 taxes paid by the person on qualified retail purchases made in
12 Washington during the immediately preceding calendar year only. No
13 application may be made with respect to purchases made before the
14 immediately preceding calendar year.

15 (b) The remittance request, including proof of nonresident status
16 and any other documentation and information required by the department,
17 must be made using an electronic application process as prescribed by
18 the department. Only one remittance request may be made by a person
19 per calendar year.

20 (c) The total amount of a remittance request must be at least
21 twenty-five dollars. The department must deny any request for a
22 remittance that is less than twenty-five dollars.

23 (d) The department will examine the applicant's proof of
24 nonresident status and any other documentation and information as
25 required in the application to determine whether the applicant is
26 entitled to a remittance under this section.

27 (5)(a) Any person making fraudulent statements to the department,
28 which includes the offer of fraudulent or fraudulently procured
29 identification or fraudulent sales receipts, in order to receive a
30 remittance of retail sales tax is guilty of perjury under chapter 9A.72
31 RCW.

32 (b) Any person requesting a remittance of sales tax from the
33 department by providing proof of identification or sales receipts not
34 the person's own, or counterfeit identification or sales receipts, with
35 intent to violate the provisions of this section, is guilty of a
36 misdemeanor and, in addition, is liable for the tax and subject to a
37 penalty equal to the greater of one hundred dollars or the tax due on
38 such purchases.

1 (6) The exemption provided by this section is for both state and
2 local sales taxes. For purposes of this section, "local sales tax"
3 means a sales tax imposed by a local government under the authority of
4 chapter 82.14 RCW, RCW 81.104.170, or other provision of law, and which
5 is imposed on the same taxable event as the state sales tax imposed in
6 this chapter.

7 (7) A nonresident who receives a refund of sales tax from the
8 seller for any reason with respect to a purchase made in this state is
9 not entitled to a remittance for the tax paid on the purchase. A
10 person who receives both a remittance under this section and a refund
11 from the seller with respect to the same purchase must immediately
12 repay the remittance to the department. Interest as provided in
13 chapter 82.32 RCW applies to amounts due under this section from the
14 date that the department made the remittance until the amount due under
15 this subsection is paid to the department. A person who receives a
16 remittance with respect to a purchase for which the person had, at the
17 time the person submitted the application for a remittance, already
18 received a refund of sales tax from the seller is also liable for the
19 evasion penalty in RCW 82.32.090(7) and is ineligible to receive any
20 further remittances from the department under this section.

21 NEW SECTION. Sec. 402. A new section is added to chapter 82.32
22 RCW to read as follows:

23 (1) By the last workday of the second and fourth calendar quarters,
24 the state treasurer must transfer the amount specified in subsection
25 (2) of this section from the general fund to the education legacy trust
26 account. The first transfer under this subsection (1) must occur by
27 December 31, 2014.

28 (2) By December 15th and by June 15th of each year, the department
29 must estimate the increase in state general fund revenues from the
30 changes made under section 401, chapter . . ., Laws of 2014 (section
31 401 of this act) for the current and prior calendar quarters and notify
32 the state treasurer of the increase.

33 NEW SECTION. Sec. 403. A new section is added to chapter 43.135
34 RCW to read as follows:

35 RCW 43.135.034(4) does not apply to the transfers under section 402
36 of this act.

