
HOUSE BILL 2996

State of Washington 64th Legislature 2016 Regular Session

By Representatives Lytton, Reykdal, and Santos

Read first time 02/24/16. Referred to Committee on Finance.

1 AN ACT Relating to investing in a well-qualified and sufficient
2 K-12 public education workforce by narrowing or eliminating tax
3 preferences; amending RCW 82.08.0293, 82.12.0293, 82.08.0273,
4 82.45.010, 82.45.080, 82.04.290, and 82.04.440; reenacting and
5 amending RCW 82.04.260; adding new sections to chapter 82.08 RCW;
6 adding new sections to chapter 82.12 RCW; adding a new section to
7 chapter 82.32 RCW; adding a new section to chapter 43.135 RCW; adding
8 a new section to chapter 39.42 RCW; creating new sections; repealing
9 RCW 82.04.272 and 82.04.293; prescribing penalties; and providing an
10 effective date.

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

12 NEW SECTION. **Sec. 1.** (1) Quality educational staff are the
13 heart of Washington's public education system. The Washington state
14 legislature has enhanced the program of basic education to include
15 the funding of full-day kindergarten and significant K-3 class size
16 reductions. These enhancements require hiring several thousand new
17 teachers in the next few years.

18 (2) Unfortunately, schools in every region of the state are
19 facing a shortage of qualified teachers and substitutes, leading to
20 overcrowding and a lack of consistency for public school students.
21 This shortage is especially severe in lower-income schools and the

1 central region of our state, where it is more difficult to attract
2 and retain teachers.

3 (3) The Washington state legislature intends to make needed
4 investments to improve recruitment and retention of qualified K-12
5 school staff. To address this need, the legislature intends to narrow
6 or eliminate tax preferences whose benefit to taxpayers no longer
7 outweighs the economic harm of delaying investments in reducing class
8 sizes and expanding all-day kindergarten.

9 **PART I**

10 **Eliminating the Preferential Business and Occupation Tax Rate for**
11 **Travel Agents**

12 **Sec. 101.** RCW 82.04.260 and 2015 3rd sp.s. c 6 s 602 and 2015
13 3rd sp.s. c 6 s 205 are each reenacted and amended to read as
14 follows:

15 (1) Upon every person engaging within this state in the business
16 of manufacturing:

17 (a) Wheat into flour, barley into pearl barley, soybeans into
18 soybean oil, canola into canola oil, canola meal, or canola by-
19 products, or sunflower seeds into sunflower oil; as to such persons
20 the amount of tax with respect to such business is equal to the value
21 of the flour, pearl barley, oil, canola meal, or canola by-product
22 manufactured, multiplied by the rate of 0.138 percent;

23 (b) Beginning July 1, 2025, seafood products that remain in a
24 raw, raw frozen, or raw salted state at the completion of the
25 manufacturing by that person; or selling manufactured seafood
26 products that remain in a raw, raw frozen, or raw salted state at the
27 completion of the manufacturing, to purchasers who transport in the
28 ordinary course of business the goods out of this state; as to such
29 persons the amount of tax with respect to such business is equal to
30 the value of the products manufactured or the gross proceeds derived
31 from such sales, multiplied by the rate of 0.138 percent. Sellers
32 must keep and preserve records for the period required by RCW
33 82.32.070 establishing that the goods were transported by the
34 purchaser in the ordinary course of business out of this state;

35 (c)(i) Beginning July 1, 2025, dairy products; or selling dairy
36 products that the person has manufactured to purchasers who either
37 transport in the ordinary course of business the goods out of state
38 or purchasers who use such dairy products as an ingredient or

1 component in the manufacturing of a dairy product; as to such persons
2 the tax imposed is equal to the value of the products manufactured or
3 the gross proceeds derived from such sales multiplied by the rate of
4 0.138 percent. Sellers must keep and preserve records for the period
5 required by RCW 82.32.070 establishing that the goods were
6 transported by the purchaser in the ordinary course of business out
7 of this state or sold to a manufacturer for use as an ingredient or
8 component in the manufacturing of a dairy product.

9 (ii) For the purposes of this subsection (1)(c), "dairy products"
10 means:

11 (A) Products, not including any marijuana-infused product, that
12 as of September 20, 2001, are identified in 21 C.F.R., chapter 1,
13 parts 131, 133, and 135, including by-products from the manufacturing
14 of the dairy products, such as whey and casein; and

15 (B) Products comprised of not less than seventy percent dairy
16 products that qualify under (c)(ii)(A) of this subsection, measured
17 by weight or volume.

18 (iii) The preferential tax rate provided to taxpayers under this
19 subsection (1)(c) does not apply to sales of dairy products on or
20 after July 1, 2023, where a dairy product is used by the purchaser as
21 an ingredient or component in the manufacturing in Washington of a
22 dairy product;

23 (d)(i) Beginning July 1, 2025, fruits or vegetables by canning,
24 preserving, freezing, processing, or dehydrating fresh fruits or
25 vegetables, or selling at wholesale fruits or vegetables manufactured
26 by the seller by canning, preserving, freezing, processing, or
27 dehydrating fresh fruits or vegetables and sold to purchasers who
28 transport in the ordinary course of business the goods out of this
29 state; as to such persons the amount of tax with respect to such
30 business is equal to the value of the products manufactured or the
31 gross proceeds derived from such sales multiplied by the rate of
32 0.138 percent. Sellers must keep and preserve records for the period
33 required by RCW 82.32.070 establishing that the goods were
34 transported by the purchaser in the ordinary course of business out
35 of this state.

36 (ii) For purposes of this subsection (1)(d), "fruits" and
37 "vegetables" do not include marijuana, useable marijuana, or
38 marijuana-infused products;

39 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or
40 biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as

1 to such persons the amount of tax with respect to the business is
2 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel
3 feedstock manufactured, multiplied by the rate of 0.138 percent; and

4 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
5 persons the amount of tax with respect to the business is equal to
6 the value of wood biomass fuel manufactured, multiplied by the rate
7 of 0.138 percent.

8 (2) Upon every person engaging within this state in the business
9 of splitting or processing dried peas; as to such persons the amount
10 of tax with respect to such business is equal to the value of the
11 peas split or processed, multiplied by the rate of 0.138 percent.

12 (3) Upon every nonprofit corporation and nonprofit association
13 engaging within this state in research and development, as to such
14 corporations and associations, the amount of tax with respect to such
15 activities is equal to the gross income derived from such activities
16 multiplied by the rate of 0.484 percent.

17 (4) Upon every person engaging within this state in the business
18 of slaughtering, breaking and/or processing perishable meat products
19 and/or selling the same at wholesale only and not at retail; as to
20 such persons the tax imposed is equal to the gross proceeds derived
21 from such sales multiplied by the rate of 0.138 percent.

22 ~~(5) ((Upon every person engaging within this state in the
23 business of acting as a travel agent or tour operator; as to such
24 persons the amount of the tax with respect to such activities is
25 equal to the gross income derived from such activities multiplied by
26 the rate of 0.275 percent.~~

27 ~~(6))~~ Upon every person engaging within this state in business as
28 an international steamship agent, international customs house broker,
29 international freight forwarder, vessel and/or cargo charter broker
30 in foreign commerce, and/or international air cargo agent; as to such
31 persons the amount of the tax with respect to only international
32 activities is equal to the gross income derived from such activities
33 multiplied by the rate of 0.275 percent.

34 ~~((7))~~ (6) Upon every person engaging within this state in the
35 business of stevedoring and associated activities pertinent to the
36 movement of goods and commodities in waterborne interstate or foreign
37 commerce; as to such persons the amount of tax with respect to such
38 business is equal to the gross proceeds derived from such activities
39 multiplied by the rate of 0.275 percent. Persons subject to taxation
40 under this subsection are exempt from payment of taxes imposed by

1 chapter 82.16 RCW for that portion of their business subject to
2 taxation under this subsection. Stevedoring and associated activities
3 pertinent to the conduct of goods and commodities in waterborne
4 interstate or foreign commerce are defined as all activities of a
5 labor, service or transportation nature whereby cargo may be loaded
6 or unloaded to or from vessels or barges, passing over, onto or under
7 a wharf, pier, or similar structure; cargo may be moved to a
8 warehouse or similar holding or storage yard or area to await further
9 movement in import or export or may move to a consolidation freight
10 station and be stuffed, unstuffed, containerized, separated or
11 otherwise segregated or aggregated for delivery or loaded on any mode
12 of transportation for delivery to its consignee. Specific activities
13 included in this definition are: Wharfage, handling, loading,
14 unloading, moving of cargo to a convenient place of delivery to the
15 consignee or a convenient place for further movement to export mode;
16 documentation services in connection with the receipt, delivery,
17 checking, care, custody and control of cargo required in the transfer
18 of cargo; imported automobile handling prior to delivery to
19 consignee; terminal stevedoring and incidental vessel services,
20 including but not limited to plugging and unplugging refrigerator
21 service to containers, trailers, and other refrigerated cargo
22 receptacles, and securing ship hatch covers.

23 ~~((+8))~~ (7)(a) Upon every person engaging within this state in
24 the business of disposing of low-level waste, as defined in RCW
25 43.145.010; as to such persons the amount of the tax with respect to
26 such business is equal to the gross income of the business, excluding
27 any fees imposed under chapter 43.200 RCW, multiplied by the rate of
28 3.3 percent.

29 (b) If the gross income of the taxpayer is attributable to
30 activities both within and without this state, the gross income
31 attributable to this state must be determined in accordance with the
32 methods of apportionment required under RCW 82.04.460.

33 ~~((+9))~~ (8) Upon every person engaging within this state as an
34 insurance producer or title insurance agent licensed under chapter
35 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW;
36 as to such persons, the amount of the tax with respect to such
37 licensed activities is equal to the gross income of such business
38 multiplied by the rate of 0.484 percent.

39 ~~((+10))~~ (9) Upon every person engaging within this state in
40 business as a hospital, as defined in chapter 70.41 RCW, that is

1 operated as a nonprofit corporation or by the state or any of its
2 political subdivisions, as to such persons, the amount of tax with
3 respect to such activities is equal to the gross income of the
4 business multiplied by the rate of 0.75 percent through June 30,
5 1995, and 1.5 percent thereafter.

6 ~~((11))~~ (10)(a) Beginning October 1, 2005, upon every person
7 engaging within this state in the business of manufacturing
8 commercial airplanes, or components of such airplanes, or making
9 sales, at retail or wholesale, of commercial airplanes or components
10 of such airplanes, manufactured by the seller, as to such persons the
11 amount of tax with respect to such business is, in the case of
12 manufacturers, equal to the value of the product manufactured and the
13 gross proceeds of sales of the product manufactured, or in the case
14 of processors for hire, equal to the gross income of the business,
15 multiplied by the rate of:

16 (i) 0.4235 percent from October 1, 2005, through June 30, 2007;
17 and

18 (ii) 0.2904 percent beginning July 1, 2007.

19 (b) Beginning July 1, 2008, upon every person who is not eligible
20 to report under the provisions of (a) of this subsection ~~((11))~~
21 (10) and is engaging within this state in the business of
22 manufacturing tooling specifically designed for use in manufacturing
23 commercial airplanes or components of such airplanes, or making
24 sales, at retail or wholesale, of such tooling manufactured by the
25 seller, as to such persons the amount of tax with respect to such
26 business is, in the case of manufacturers, equal to the value of the
27 product manufactured and the gross proceeds of sales of the product
28 manufactured, or in the case of processors for hire, be equal to the
29 gross income of the business, multiplied by the rate of 0.2904
30 percent.

31 (c) For the purposes of this subsection ~~((11))~~ (10),
32 "commercial airplane" and "component" have the same meanings as
33 provided in RCW 82.32.550.

34 (d) In addition to all other requirements under this title, a
35 person reporting under the tax rate provided in this subsection
36 ~~((11))~~ (10) must file a complete annual report with the department
37 under RCW 82.32.534.

38 (e)(i) Except as provided in (e)(ii) of this subsection ~~((11))~~
39 (10), this subsection ~~((11))~~ (10) does not apply on and after July
40 1, 2040.

1 (ii) With respect to the manufacturing of commercial airplanes or
2 making sales, at retail or wholesale, of commercial airplanes, this
3 subsection (~~((11))~~) (10) does not apply on and after July 1st of the
4 year in which the department makes a determination that any final
5 assembly or wing assembly of any version or variant of a commercial
6 airplane that is the basis of a siting of a significant commercial
7 airplane manufacturing program in the state under RCW 82.32.850 has
8 been sited outside the state of Washington. This subsection (~~((11))~~)
9 (10)(e)(ii) only applies to the manufacturing or sale of commercial
10 airplanes that are the basis of a siting of a significant commercial
11 airplane manufacturing program in the state under RCW 82.32.850.

12 (~~((12))~~) (11)(a) Until July 1, 2024, upon every person engaging
13 within this state in the business of extracting timber or extracting
14 for hire timber; as to such persons the amount of tax with respect to
15 the business is, in the case of extractors, equal to the value of
16 products, including by-products, extracted, or in the case of
17 extractors for hire, equal to the gross income of the business,
18 multiplied by the rate of 0.4235 percent from July 1, 2006, through
19 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
20 2024.

21 (b) Until July 1, 2024, upon every person engaging within this
22 state in the business of manufacturing or processing for hire: (i)
23 Timber into timber products or wood products; or (ii) timber products
24 into other timber products or wood products; as to such persons the
25 amount of the tax with respect to the business is, in the case of
26 manufacturers, equal to the value of products, including by-products,
27 manufactured, or in the case of processors for hire, equal to the
28 gross income of the business, multiplied by the rate of 0.4235
29 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent
30 from July 1, 2007, through June 30, 2024.

31 (c) Until July 1, 2024, upon every person engaging within this
32 state in the business of selling at wholesale: (i) Timber extracted
33 by that person; (ii) timber products manufactured by that person from
34 timber or other timber products; or (iii) wood products manufactured
35 by that person from timber or timber products; as to such persons the
36 amount of the tax with respect to the business is equal to the gross
37 proceeds of sales of the timber, timber products, or wood products
38 multiplied by the rate of 0.4235 percent from July 1, 2006, through
39 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
40 2024.

1 (d) Until July 1, 2024, upon every person engaging within this
2 state in the business of selling standing timber; as to such persons
3 the amount of the tax with respect to the business is equal to the
4 gross income of the business multiplied by the rate of 0.2904
5 percent. For purposes of this subsection (~~((12))~~) (11)(d), "selling
6 standing timber" means the sale of timber apart from the land, where
7 the buyer is required to sever the timber within thirty months from
8 the date of the original contract, regardless of the method of
9 payment for the timber and whether title to the timber transfers
10 before, upon, or after severance.

11 (e) For purposes of this subsection, the following definitions
12 apply:

13 (i) "Biocomposite surface products" means surface material
14 products containing, by weight or volume, more than fifty percent
15 recycled paper and that also use nonpetroleum-based phenolic resin as
16 a bonding agent.

17 (ii) "Paper and paper products" means products made of interwoven
18 cellulosic fibers held together largely by hydrogen bonding. "Paper
19 and paper products" includes newsprint; office, printing, fine, and
20 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
21 kraft bag, construction, and other kraft industrial papers;
22 paperboard, liquid packaging containers, containerboard, corrugated,
23 and solid-fiber containers including linerboard and corrugated
24 medium; and related types of cellulosic products containing
25 primarily, by weight or volume, cellulosic materials. "Paper and
26 paper products" does not include books, newspapers, magazines,
27 periodicals, and other printed publications, advertising materials,
28 calendars, and similar types of printed materials.

29 (iii) "Recycled paper" means paper and paper products having
30 fifty percent or more of their fiber content that comes from
31 postconsumer waste. For purposes of this subsection (~~((12))~~) (11)
32 (e)(iii), "postconsumer waste" means a finished material that would
33 normally be disposed of as solid waste, having completed its life
34 cycle as a consumer item.

35 (iv) "Timber" means forest trees, standing or down, on privately
36 or publicly owned land. "Timber" does not include Christmas trees
37 that are cultivated by agricultural methods or short-rotation
38 hardwoods as defined in RCW 84.33.035.

39 (v) "Timber products" means:

1 (A) Logs, wood chips, sawdust, wood waste, and similar products
2 obtained wholly from the processing of timber, short-rotation
3 hardwoods as defined in RCW 84.33.035, or both;

4 (B) Pulp, including market pulp and pulp derived from recovered
5 paper or paper products; and

6 (C) Recycled paper, but only when used in the manufacture of
7 biocomposite surface products.

8 (vi) "Wood products" means paper and paper products; dimensional
9 lumber; engineered wood products such as particleboard, oriented
10 strand board, medium density fiberboard, and plywood; wood doors;
11 wood windows; and biocomposite surface products.

12 (f) Except for small harvesters as defined in RCW 84.33.035, a
13 person reporting under the tax rate provided in this subsection
14 (~~((12))~~) (11) must file a complete annual survey with the department
15 under RCW 82.32.585.

16 (~~((13))~~) (12) Upon every person engaging within this state in
17 inspecting, testing, labeling, and storing canned salmon owned by
18 another person, as to such persons, the amount of tax with respect to
19 such activities is equal to the gross income derived from such
20 activities multiplied by the rate of 0.484 percent.

21 (~~((14))~~) (13)(a) Upon every person engaging within this state in
22 the business of printing a newspaper, publishing a newspaper, or
23 both, the amount of tax on such business is equal to the gross income
24 of the business multiplied by the rate of 0.35 percent until July 1,
25 2024, and 0.484 percent thereafter.

26 (b) A person reporting under the tax rate provided in this
27 subsection (~~((14))~~) (13) must file a complete annual report with the
28 department under RCW 82.32.534.

29 PART II

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

31 **Sec. 201.** RCW 82.08.0293 and 2014 c 140 s 22 are each amended to
32 read as follows:

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

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

4 (b) "Tobacco," which means cigarettes, cigars, chewing or pipe
5 tobacco, or any other item that contains tobacco; and

6 (c) Marijuana, useable marijuana, or marijuana-infused products.

7 (2) The exemption of "food and food ingredients" provided for in
8 subsection (1) of this section does not apply to prepared food, soft
9 drinks, bottled water, or dietary supplements. (~~For purposes of this~~
10 ~~subsection, the following definitions apply:~~) The definitions in
11 this subsection apply throughout this section unless the context
12 clearly requires otherwise.

13 (a) "Bottled water" means water that is placed in a safety sealed
14 container or package for human consumption. Bottled water is calorie
15 free and does not contain sweeteners or other additives except that
16 it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii)
17 carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen;
18 (vi) preservatives; and (vii) only those flavors, extracts, or
19 essences derived from a spice or fruit. "Bottled water" includes
20 water that is delivered to the buyer in a reusable container that is
21 not sold with the water.

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

24 (i) Contains one or more of the following dietary ingredients:

25 (A) A vitamin;

26 (B) A mineral;

27 (C) An herb or other botanical;

28 (D) An amino acid;

29 (E) A dietary substance for use by humans to supplement the diet
30 by increasing the total dietary intake; or

31 (F) A concentrate, metabolite, constituent, extract, or
32 combination of any ingredient described in this subsection;

33 (ii) Is intended for ingestion in tablet, capsule, powder,
34 softgel, gelcap, or liquid form, or if not intended for ingestion in
35 such form, is not represented as conventional food and is not
36 represented for use as a sole item of a meal or of the diet; and

37 (iii) Is required to be labeled as a dietary supplement,
38 identifiable by the "supplement facts" box found on the label as
39 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered
40 as of January 1, 2003.

1 ~~((b))~~ (c)(i) "Prepared food" means:
2 (A) Food sold in a heated state or heated by the seller;
3 (B) Food sold with eating utensils provided by the seller,
4 including plates, knives, forks, spoons, glasses, cups, napkins, or
5 straws. A plate does not include a container or packaging used to
6 transport the food; or
7 (C) Two or more food ingredients mixed or combined by the seller
8 for sale as a single item, except:
9 (I) Food that is only cut, repackaged, or pasteurized by the
10 seller; or
11 (II) Raw eggs, fish, meat, poultry, and foods containing these
12 raw animal foods requiring cooking by the consumer as recommended by
13 the federal food and drug administration in chapter 3, part 401.11 of
14 The Food Code, published by the food and drug administration, as
15 amended or renumbered as of January 1, 2003, so as to prevent
16 foodborne illness.
17 (ii) "Prepared food" does not include the following food or food
18 ingredients, if the food or food ingredients are sold without eating
19 utensils provided by the seller:
20 (A) Food sold by a seller whose proper primary North American
21 industry classification system (NAICS) classification is
22 manufacturing in sector 311, except subsector 3118 (bakeries), as
23 provided in the "North American industry classification system—United
24 States, 2002";
25 (B) Food sold in an unheated state by weight or volume as a
26 single item; or
27 (C) Bakery items. The term "bakery items" includes bread, rolls,
28 buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes,
29 tortes, pies, tarts, muffins, bars, cookies, or tortillas.
30 ~~((e))~~ (d) "Soft drinks" means nonalcoholic beverages that
31 contain natural or artificial sweeteners. Soft drinks do not include
32 beverages that contain: Milk or milk products; soy, rice, or similar
33 milk substitutes; or greater than fifty percent of vegetable or fruit
34 juice by volume.
35 (3) Notwithstanding anything in this section to the contrary, the
36 exemption of "food and food ingredients" provided in this section
37 applies to food and food ingredients that are furnished, prepared, or
38 served as meals:

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

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

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

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

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

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

23 (4)(a) Subsection (1) of this section notwithstanding, the retail
24 sale of food and food ingredients is subject to sales tax under RCW
25 82.08.020 if the food and food ingredients are sold through a vending
26 machine. Except as provided in (b) of this subsection, the selling
27 price of food and food ingredients sold through a vending machine for
28 purposes of RCW 82.08.020 is fifty-seven percent of the gross
29 receipts.

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

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

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

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

4 (2) The exemption of "food and food ingredients" provided for in
5 subsection (1) of this section does not apply to prepared food, soft
6 drinks, bottled water, or dietary supplements. "Prepared food," "soft
7 drinks," "bottled water," and "dietary supplements" have the same
8 meanings as in RCW 82.08.0293.

9 (3) Notwithstanding anything in this section to the contrary, the
10 exemption of "food and food ingredients" provided in this section
11 applies to food and food ingredients which are furnished, prepared,
12 or served as meals:

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

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

19 (c) That are provided to residents, sixty-two years of age or
20 older, of a qualified low-income senior housing facility by the
21 lessor or operator of the facility. The sale of a meal that is billed
22 to both spouses of a marital community or both domestic partners of a
23 domestic partnership meets the age requirement in this subsection
24 (3)(c) if at least one of the spouses or domestic partners is at
25 least sixty-two years of age. For purposes of this subsection,
26 "qualified low-income senior housing facility" has the same meaning
27 as in RCW 82.08.0293.

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

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

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

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

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

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

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

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

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

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

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

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

35 (i) The public water system providing the drinking water has
36 issued a public notification that the drinking water may pose a
37 health risk, and the notification is still in effect on the date that
38 the bottled water was purchased;

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

6 (iii) The person otherwise establishes, to the department's
7 satisfaction, that the person's drinking water does not meet safe
8 drinking water standards applicable to public water systems.

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

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

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

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

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

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

35 **PART III**

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

1 **Sec. 301.** RCW 82.08.0273 and 2014 c 140 s 17 are each amended to
2 read as follows:

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

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

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

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

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

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

25 (2) Notwithstanding anything to the contrary in this chapter, if
26 parts or other tangible personal property are installed by the seller
27 during the course of repairing, cleaning, altering, or improving
28 motor vehicles, trailers, or campers and the seller makes a separate
29 charge for the tangible personal property, the tax levied by RCW
30 82.08.020 does not apply to the separately stated charge to a
31 nonresident purchaser for the tangible personal property but only if
32 the separately stated charge does not exceed either the seller's
33 current publicly stated retail price for the tangible personal
34 property or, if no publicly stated retail price is available, the
35 seller's cost for the tangible personal property. However, the
36 exemption provided by this section does not apply if tangible
37 personal property is installed by the seller during the course of
38 repairing, cleaning, altering, or improving motor vehicles, trailers,
39 or campers and the seller makes a single nonitemized charge for
40 providing the tangible personal property and service. All of the

1 ~~((requirements))~~ provisions in subsections (1) and (3) through
2 ~~((6))~~ (7) of this section apply to this subsection.

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

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

26 (c) In lieu of furnishing proof of a person's nonresident status
27 under (b) of this subsection (3), a person claiming exemption from
28 retail sales tax under the provisions of this section may provide the
29 seller with an exemption certificate in compliance with subsection
30 (4)(b) of this section.

31 ~~((Nothing in this section requires the vendor to make tax~~
32 ~~exempt retail sales to nonresidents. A vendor may choose to make~~
33 ~~sales to nonresidents, collect the sales tax, and remit the amount of~~
34 ~~sales tax collected to the state as otherwise provided by law. If the~~
35 ~~vendor chooses to make a sale to a nonresident without collecting the~~
36 ~~sales tax, the vendor must examine the purchaser's proof of~~
37 ~~nonresidence, determine whether the proof is acceptable under~~
38 ~~subsection (3)(b) of this section, and maintain records for each~~
39 ~~nontaxable sale which must show the type of proof accepted, including~~

1 ~~any identification numbers where appropriate, and the expiration~~
2 ~~date, if any.~~

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

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

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

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

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

30 ~~(b) Any vendor who makes sales without collecting the retail~~
31 ~~sales tax under this section and who has actual knowledge that the~~
32 ~~purchaser's proof of identification establishing out-of-state~~
33 ~~residency is fraudulent is guilty of a misdemeanor and, in addition,~~
34 ~~is liable for the tax and subject to a penalty equal to the greater~~
35 ~~of one thousand dollars or the tax due on such sales. In addition,~~
36 ~~both the purchaser and the vendor are liable for any penalties and~~
37 ~~interest assessable under chapter 82.32 RCW)) (i) Beginning January~~
38 ~~1, 2017, through December 31, 2017, a person may request a remittance~~
39 ~~from the department for state sales taxes paid by the person on~~

1 qualified retail purchases made in Washington between July 1, 2016,
2 and December 31, 2016.

3 (ii) Beginning January 1, 2018, a person may request a remittance
4 from the department during any calendar year for state sales taxes
5 paid by the person on qualified retail purchases made in Washington
6 during the immediately preceding calendar year only. No application
7 may be made with respect to purchases made before the immediately
8 preceding calendar year.

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

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

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

21 (5)(a) Any person making fraudulent statements to the department,
22 which includes the offer of fraudulent or fraudulently procured
23 identification or fraudulent sales receipts, in order to receive a
24 remittance of retail sales tax is guilty of perjury under chapter
25 9A.72 RCW.

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

33 (6) The exemption provided by this section is for state sales
34 taxes.

35 (7) A nonresident who receives a refund of sales tax from the
36 seller for any reason with respect to a purchase made in this state
37 is not entitled to a remittance for the tax paid on the purchase. A
38 person who receives both a remittance under this section and a refund
39 from the seller with respect to the same purchase must immediately
40 repay the remittance to the department. Interest as provided in

1 chapter 82.32 RCW applies to amounts due under this section from the
2 date that the department made the remittance until the amount due
3 under this subsection is paid to the department. A person who
4 receives a remittance with respect to a purchase for which the person
5 had, at the time the person submitted the application for a
6 remittance, already received a refund of sales tax from the seller is
7 also liable for the evasion penalty in RCW 82.32.090(7) and is
8 ineligible to receive any further remittances from the department
9 under this section.

10 ((+7)) (8) The exemption in this section does not apply to sales
11 of marijuana, useable marijuana, or marijuana-infused products.

12 **PART IV**

13 **Repealing the Preferential B&O Tax Rate for Sellers of Prescription**
14 **Drugs**

15 NEW SECTION. Sec. 401. RCW 82.04.272 (Tax on warehousing and
16 reselling prescription drugs) and 2013 c 19 s 127, 2003 c 168 s 401,
17 & 1998 c 343 s 1 are each repealed.

18 NEW SECTION. Sec. 402. Section 401 of this act applies to taxes
19 due for reporting periods beginning on or after the effective date of
20 section 401 of this act.

21 **PART V**

22 **Real Estate Excise Tax on Foreclosures**

23 NEW SECTION. Sec. 501. The legislature finds that the existing
24 real estate excise tax exemption for transfers occurring in the
25 context of bank foreclosures and the enforcement of judgments by
26 creditors does not benefit distressed homeowners except in limited
27 circumstances. The exemption has been broadly used to exempt sales
28 made to third-party buyers by combining an unrelated sales
29 transaction into the foreclosure proceeding. In addition, there have
30 been questions raised in litigation whether the exemption applies to
31 orders of sales arising in any court context, rather than those
32 expressly identified in the existing exemption. It is the intent of
33 the legislature to (1) eliminate the real estate excise tax exemption
34 for transfers that occur in foreclosures except in circumstances
35 where the tax would impact the owner of the property, and (2)

1 restructure the existing statute to preserve the exemption for deeds
2 given in lieu of the foreclosure process and transfers made to
3 extinguish existing security interests. Because this restructuring is
4 intended only to clarify and preserve existing exemptions, the
5 legislature does not intend for the provisions of RCW 82.32.805 or
6 82.32.808 to apply to this act.

7 **Sec. 502.** RCW 82.45.010 and 2014 c 58 s 24 are each amended to
8 read as follows:

9 (1) As used in this chapter, the term "sale" has its ordinary
10 meaning and includes any conveyance, grant, assignment, quitclaim, or
11 transfer of the ownership of or title to real property, including
12 standing timber, or any estate or interest therein for a valuable
13 consideration, and any contract for such conveyance, grant,
14 assignment, quitclaim, or transfer, and any lease with an option to
15 purchase real property, including standing timber, or any estate or
16 interest therein or other contract under which possession of the
17 property is given to the purchaser, or any other person at the
18 purchaser's direction, and title to the property is retained by the
19 vendor as security for the payment of the purchase price. The term
20 also includes the grant, assignment, quitclaim, sale, or transfer of
21 improvements constructed upon leased land.

22 (2)(a) The term "sale" also includes the transfer or acquisition
23 within any twelve-month period of a controlling interest in any
24 entity with an interest in real property located in this state for a
25 valuable consideration.

26 (b) For the sole purpose of determining whether, pursuant to the
27 exercise of an option, a controlling interest was transferred or
28 acquired within a twelve-month period, the date that the option
29 agreement was executed is the date on which the transfer or
30 acquisition of the controlling interest is deemed to occur. For all
31 other purposes under this chapter, the date upon which the option is
32 exercised is the date of the transfer or acquisition of the
33 controlling interest.

34 (c) For purposes of this subsection, all acquisitions of persons
35 acting in concert must be aggregated for purposes of determining
36 whether a transfer or acquisition of a controlling interest has taken
37 place. The department must adopt standards by rule to determine when
38 persons are acting in concert. In adopting a rule for this purpose,
39 the department must consider the following:

1 (i) Persons must be treated as acting in concert when they have a
2 relationship with each other such that one person influences or
3 controls the actions of another through common ownership; and

4 (ii) When persons are not commonly owned or controlled, they must
5 be treated as acting in concert only when the unity with which the
6 purchasers have negotiated and will consummate the transfer of
7 ownership interests supports a finding that they are acting as a
8 single entity. If the acquisitions are completely independent, with
9 each purchaser buying without regard to the identity of the other
10 purchasers, then the acquisitions are considered separate
11 acquisitions.

12 (3) The term "sale" does not include:

13 (a) A transfer by gift, devise, or inheritance.

14 (b) A transfer by transfer on death deed, to the extent that it
15 is not in satisfaction of a contractual obligation of the decedent
16 owed to the recipient of the property.

17 (c) A transfer of any leasehold interest other than of the type
18 mentioned above.

19 (d) A cancellation or forfeiture of a vendee's interest in a
20 contract for the sale of real property, whether or not such contract
21 contains a forfeiture clause, or deed in lieu of foreclosure of ((a
22 ~~mortgage~~)) either a mortgage or deed of trust, except to the extent
23 of any additional consideration provided to the grantor.

24 (e) The partition of property by tenants in common by agreement
25 or as the result of a court decree.

26 (f) The assignment of property or interest in property from one
27 spouse or one domestic partner to the other spouse or other domestic
28 partner in accordance with the terms of a decree of dissolution of
29 marriage or state registered domestic partnership or in fulfillment
30 of a property settlement agreement.

31 (g) The assignment or other transfer of a vendor's interest in a
32 contract for the sale of real property, even though accompanied by a
33 conveyance of the vendor's interest in the real property involved.

34 (h) Transfers by appropriation or decree in condemnation
35 proceedings brought by the United States, the state or any political
36 subdivision thereof, or a municipal corporation.

37 (i) A mortgage, deed of trust, or other transfer of an interest
38 in real property merely to secure a debt, or the assignment,
39 reconveyance, or release thereof.

1 (j) Any transfer or conveyance made pursuant to a foreclosure of
2 a mortgage or deed of trust, or an order of sale by the court in any
3 mortgage, deed of trust, or lien foreclosure proceeding or upon
4 execution of a judgment(~~(, or deed in lieu of foreclosure to satisfy~~
5 ~~a mortgage or deed of trust)) pursuant to chapter 6.17 RCW, when:~~

6 (i) The transfer or conveyance is to other than the mortgagee,
7 beneficiary of the deed of trust, lienholder, or judgment creditor,
8 and the selling price exceeds the amount of the lien, security
9 interest, or judgment that is the subject of the foreclosure or
10 execution; or

11 (ii) The transfer or conveyance is to the United States, this
12 state, or any political subdivision thereof, or a municipal
13 corporation of this state.

14 (k) A conveyance to the federal housing administration or
15 veterans administration by an authorized mortgagee made pursuant to a
16 contract of insurance or guaranty with the federal housing
17 administration or veterans administration.

18 (l) A transfer in compliance with the terms of any lease or
19 contract upon which the tax as imposed by this chapter has been paid
20 or where the lease or contract was entered into prior to the date
21 this tax was first imposed.

22 (m) The sale of any grave or lot in an established cemetery.

23 (n) A sale by the United States, this state or any political
24 subdivision thereof, or a municipal corporation of this state.

25 (o) A sale to a regional transit authority or public corporation
26 under RCW 81.112.320 under a sale/leaseback agreement under RCW
27 81.112.300.

28 (p) A transfer of real property, however effected, if it consists
29 of a mere change in identity or form of ownership of an entity where
30 there is no change in the beneficial ownership. These include
31 transfers to a corporation or partnership which is wholly owned by
32 the transferor and/or the transferor's spouse or domestic partner or
33 children of the transferor or the transferor's spouse or domestic
34 partner. However, if thereafter such transferee corporation or
35 partnership voluntarily transfers such real property, or such
36 transferor, spouse or domestic partner, or children of the transferor
37 or the transferor's spouse or domestic partner voluntarily transfer
38 stock in the transferee corporation or interest in the transferee
39 partnership capital, as the case may be, to other than (i) the
40 transferor and/or the transferor's spouse or domestic partner or

1 children of the transferor or the transferor's spouse or domestic
2 partner, (ii) a trust having the transferor and/or the transferor's
3 spouse or domestic partner or children of the transferor or the
4 transferor's spouse or domestic partner as the only beneficiaries at
5 the time of the transfer to the trust, or (iii) a corporation or
6 partnership wholly owned by the original transferor and/or the
7 transferor's spouse or domestic partner or children of the transferor
8 or the transferor's spouse or domestic partner, within three years of
9 the original transfer to which this exemption applies, and the tax on
10 the subsequent transfer has not been paid within sixty days of
11 becoming due, excise taxes become due and payable on the original
12 transfer as otherwise provided by law.

13 (q)(i) A transfer that for federal income tax purposes does not
14 involve the recognition of gain or loss for entity formation,
15 liquidation or dissolution, and reorganization, including but not
16 limited to nonrecognition of gain or loss because of application of
17 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
18 revenue code of 1986, as amended.

19 (ii) However, the transfer described in (q)(i) of this subsection
20 cannot be preceded or followed within a twelve-month period by
21 another transfer or series of transfers, that, when combined with the
22 otherwise exempt transfer or transfers described in (q)(i) of this
23 subsection, results in the transfer of a controlling interest in the
24 entity for valuable consideration, and in which one or more persons
25 previously holding a controlling interest in the entity receive cash
26 or property in exchange for any interest the person or persons acting
27 in concert hold in the entity. This subsection (3) (q)(ii) does not
28 apply to that part of the transfer involving property received that
29 is the real property interest that the person or persons originally
30 contributed to the entity or when one or more persons who did not
31 contribute real property or belong to the entity at a time when real
32 property was purchased receive cash or personal property in exchange
33 for that person or persons' interest in the entity. The real estate
34 excise tax under this subsection (3)(q)(ii) is imposed upon the
35 person or persons who previously held a controlling interest in the
36 entity.

37 (r) A qualified sale of a manufactured/mobile home community, as
38 defined in RCW 59.20.030, that takes place on or after June 12, 2008,
39 but before December 31, 2018.

1 explicitly under another section in this chapter or subsection (~~((1)~~
2 ~~or (3))~~) (2) of this section; as to such persons the amount of tax on
3 account of such activities is equal to the gross income of the
4 business multiplied by the rate of 1.5 percent.

5 (b) This subsection (~~((2))~~) (1) includes, among others, and
6 without limiting the scope hereof (whether or not title to materials
7 used in the performance of such business passes to another by
8 accession, confusion or other than by outright sale), persons engaged
9 in the business of rendering any type of service which does not
10 constitute a "sale at retail" or a "sale at wholesale." The value of
11 advertising, demonstration, and promotional supplies and materials
12 furnished to an agent by his or her principal or supplier to be used
13 for informational, educational, and promotional purposes is not
14 considered a part of the agent's remuneration or commission and is
15 not subject to taxation under this section.

16 (~~((3))~~) (2)(a) Until July 1, 2040, upon every person engaging
17 within this state in the business of performing aerospace product
18 development for others, as to such persons, the amount of tax with
19 respect to such business is equal to the gross income of the business
20 multiplied by a rate of 0.9 percent.

21 (b) A person reporting under the tax rate provided in this
22 subsection (~~((3))~~) (2) must file a complete annual report with the
23 department under RCW 82.32.534.

24 (c) "Aerospace product development" has the meaning as provided
25 in RCW 82.04.4461.

26 NEW SECTION. Sec. 602. RCW 82.04.293 (International investment
27 management services—Definitions) and 1997 c 7 s 3 & 1995 c 229 s 1
28 are each repealed.

29 PART VII

30 Transfers to Education Legacy Trust Account

31 NEW SECTION. Sec. 701. A new section is added to chapter 82.32
32 RCW to read as follows:

33 (1) By the last workday of the second and fourth calendar
34 quarters, the state treasurer must transfer the amount specified in
35 subsection (2) of this section from the general fund to the education
36 legacy trust account. The first transfer under this subsection (1)
37 must occur by December 31, 2016.

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

6 NEW SECTION. **Sec. 702.** 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
9 701 of this act.

10 NEW SECTION. **Sec. 703.** A new section is added to chapter 39.42
11 RCW to read as follows:
12 The purpose of repealing or narrowing tax preferences in parts I
13 through VI of this act is to support education-related expenditures
14 from the education legacy trust account. For this reason, general
15 state revenues transferred to the education legacy trust account
16 under section 701 of this act are excluded from the calculation of
17 general state revenues for purposes of Article VIII, section 1 of the
18 state Constitution and RCW 39.42.130 and 39.42.140.

19 **PART VIII**
20 **Technical Amendments**

21 **Sec. 801.** RCW 82.04.440 and 2011 c 2 s 205 are each amended to
22 read as follows:

23 (1) Every person engaged in activities that are subject to tax
24 under two or more provisions of RCW 82.04.230 through 82.04.298,
25 inclusive, is taxable under each provision applicable to those
26 activities.

27 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250,
28 82.04.270, 82.04.294(2), or 82.04.260 (1)(b), (c), or (d), (4),
29 (~~((11), or (12))~~) (10), or (11) with respect to selling products in
30 this state, including those persons who are also taxable under RCW
31 82.04.261, are allowed a credit against those taxes for any (a)
32 manufacturing taxes paid with respect to the manufacturing of
33 products so sold in this state, and/or (b) extracting taxes paid with
34 respect to the extracting of products so sold in this state or
35 ingredients of products so sold in this state. Extracting taxes taken
36 as credit under subsection (3) of this section may also be taken

1 under this subsection, if otherwise allowable under this subsection.
2 The amount of the credit may not exceed the tax liability arising
3 under this chapter with respect to the sale of those products.

4 (3) Persons taxable as manufacturers under RCW 82.04.240 or
5 82.04.260 (1)(b) or (~~(12)~~) (11), including those persons who are
6 also taxable under RCW 82.04.261, are allowed a credit against those
7 taxes for any extracting taxes paid with respect to extracting the
8 ingredients of the products so manufactured in this state. The amount
9 of the credit may not exceed the tax liability arising under this
10 chapter with respect to the manufacturing of those products.

11 (4) Persons taxable under RCW 82.04.230, 82.04.240,
12 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), (4),
13 (~~(11), or (12)~~) (10), or (11), including those persons who are also
14 taxable under RCW 82.04.261, with respect to extracting or
15 manufacturing products in this state are allowed a credit against
16 those taxes for any (i) gross receipts taxes paid to another state
17 with respect to the sales of the products so extracted or
18 manufactured in this state, (ii) manufacturing taxes paid with
19 respect to the manufacturing of products using ingredients so
20 extracted in this state, or (iii) manufacturing taxes paid with
21 respect to manufacturing activities completed in another state for
22 products so manufactured in this state. The amount of the credit may
23 not exceed the tax liability arising under this chapter with respect
24 to the extraction or manufacturing of those products.

25 (5) For the purpose of this section:

26 (a) "Gross receipts tax" means a tax:

27 (i) Which is imposed on or measured by the gross volume of
28 business, in terms of gross receipts or in other terms, and in the
29 determination of which the deductions allowed would not constitute
30 the tax an income tax or value added tax; and

31 (ii) Which is also not, pursuant to law or custom, separately
32 stated from the sales price.

33 (b) "State" means (i) the state of Washington, (ii) a state of
34 the United States other than Washington, or any political subdivision
35 of such other state, (iii) the District of Columbia, and (iv) any
36 foreign country or political subdivision thereof.

37 (c) "Manufacturing tax" means a gross receipts tax imposed on the
38 act or privilege of engaging in business as a manufacturer, and
39 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404,
40 82.04.2909(1), 82.04.260 (1), (2), (4), (~~(11), and (12)~~) (10), and

1 (11), and 82.04.294(1); (ii) the tax imposed under RCW 82.04.261 on
2 persons who are engaged in business as a manufacturer; and (iii)
3 similar gross receipts taxes paid to other states.

4 (d) "Extracting tax" means a gross receipts tax imposed on the
5 act or privilege of engaging in business as an extractor, and
6 includes (i) the tax imposed on extractors in RCW 82.04.230 and
7 82.04.260(~~(12)~~) (11); (ii) the tax imposed under RCW 82.04.261 on
8 persons who are engaged in business as an extractor; and (iii)
9 similar gross receipts taxes paid to other states.

10 (e) "Business," "manufacturer," "extractor," and other terms used
11 in this section have the meanings given in RCW 82.04.020 through
12 (~~82.04.212~~ ~~[82.04.217]~~) 82.04.217, notwithstanding the use of those
13 terms in the context of describing taxes imposed by other states.

14 **PART IX**
15 **Miscellaneous Technical Provisions**

16 NEW SECTION. **Sec. 901.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 902.** This act takes effect July 1, 2016.

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